

No. 84-782

Supreme Court, U.S.
FILED

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JOSEPH F. SPANIOLO, JR.
CLERKIN THE
Supreme Court of the United States

OCTOBER TERM, 1984

STATE OF SOUTH CAROLINA, *et al.*,
v. *Petitioners,*CATAWBA INDIAN TRIBE OF SOUTH CAROLINA,
*Respondent.*On Writ of Certiorari to the United States
Court of Appeals for the Fourth Circuit

JOINT APPENDIX

JOHN C. CHRISTIE, JR.*
J. WILLIAM HAYTON
STEPHEN J. LANDES
LUCINDA O. MCCONATHY
BELL, BOYD & LLOYD
1775 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202) 466-6300*Attorneys for*
Celanese Corporation of
*America, et al.*J. D. TODD, JR.*
MICHAEL J. GIESE
GWENDOLYN EMBLER
LEATHERWOOD, WALKER, TODD
& MANN
217 E. Coffee Street
Greenville, SC 29602
(803) 242-6440*Attorneys for*
*C. H. Albright, et al.*DAN M. BYRD, JR.*
MITCHELL K. BYRD
BYRD & BYRD
240 East Black Street
Rock Hill, SC 29730
(803) 324-5151*Attorneys for*
*Springs Mills, Inc., et al.*JAMES D. ST. CLAIR *
JAMES L. QUARLES, III
WILLIAM F. LEE
DAVID H. ERICHSEN
HALE AND DORR
60 State Street
Boston, MA 02109
(617) 742-9100*Attorneys for the State of*
*South Carolina, et al.*T. TRAVIS MEDLOCK *
Attorney General
KENNETH P. WOODINGTON
Assistant Attorney General
State of South Carolina
Rembert Dennis Building
Columbia, SC 29211
(803) 758-3970*Attorneys for the State of*
*South Carolina** Counsel Of Record For.
Each Petitioner

September 3, 1985

PETITION FOR CERTIORARI FILED NOVEMBER 14, 1984
CERTIORARI GRANTED JUNE 3, 1985

153 PP

DON B. MILLER *

**NATIVE AMERICAN RIGHTS FUND
1506 Broadway
Boulder, CO 80302
(303) 447-8760**

JEAN H. TOAL

**BELSER, BAKER, BARWICK,
RAVENEL, TOAL & BENDER
1213 Lady Street, Suite 303
Columbia, SC 29211
(803) 799-9091**

ROBERT M. JONES

**123 Workman Street
Rock Hill, SC 29730
(803) 324-2988**

MIKE JOLLY

RICHARD STEELE

**113 West Main Street
Union, SC 29379
(803) 427-8471**

*** Counsel Of Record
For Respondent**

BEST AVAILABLE COPY

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Note: All items have been printed exactly as they appear in the original. Misspellings and inconsistencies have not been corrected.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Civil Action No. 80-2050

CATAWBA INDIAN TRIBE OF SOUTH CAROLINA,
also known as the
CATAWBA NATION OF SOUTH CAROLINA,
Plaintiffs

v.

STATE OF SOUTH CAROLINA, *et al.*,
Defendants

RELEVANT DOCKET ENTRIES

DATE	NR.	PROCEEDINGS
10-28-80	1	SUMMONS AND COMPLAINT AND JS44 76 cc to USM for svc. 10-29-80 w/cpy of motion
10-28-80	2	MOTION (REF ———) by pltf. to certify class action
10-28-80	3	MEMORANDUM (RECEIVED) by pltf. in support of motion to certify class action
11-4-80	—	USM RETURN of svc of S&C and Motion on State of S.C., Richard Riley as Governor, Cola., S.C., 10-31-80
11-7-80	—	USM ENDEAVOR (10) of endeavor to svc S&C on defts., Francis Lay Springs, Lan- caster, 11-7-80; on W.J. Harris, Harris, Rock Hill, 11-7; John Marshall Walker, II, Rock Hill; Arnold F. Marshall, Rock Hill; Wilson Barron, Rock Hill; Robert F. Simpson, Rock Hill; F.M. Mack, Fort Mill; J.R. McAlhaney, Fort Mill; John W. Ardrey, Fort Mill; E.N. Martin, Prospect, Ky, ALL RTN UNEX 11- 7-80

DATE	NR.	PROCEEDINGS
11-7-80	—	USM RETURNS (62) of svc of S&C on defts., J. Max Henson, Elizabeth Ardrey Grimbball, W.B. Ardrey, Jr., Springs Mills, Ardrey Farms, Tega Cay Associates, Hugh M. White, Jr., W.A. McCorckle, Mary McCorckle, Fort Mill, S.C., 11-5-80; William O. Nisbit, Robert M. Yoder, 11-5-80, Lancaster, S.C., County of Lancaster, William Elliot Close, Patricia Close, Leroy Springs Close, Francis Allison Close, Hugh William Close, Jr., James Bradley, Hugh William Close, Lillian Crandall Close, 11-6-80, Lancaster, S.C.; Church Heritage Village & Missionary Fellowship; Wachovia Bank and Trust Co., John M. Belk, W.O. Nisbett, III, Mary Nisbet Purvis, J.P. Stevens & Co., Jane Nisbett Goode, Nisbet Farms, Inc., R.N. Rencher, Thomas Brown Snodgrass, Jr., Crescent Land & Timber, Corp., Duke Power Co., 11-3-80 Charlotte, N.C.; Euginia Nisbet White, Archie B. Carroll, Jr., 11-4-80, Charlotte, N.C.; Will R. Simpson, Citizens and Southern National Bank of S.C., T.W. Hutchinson, Hiram Hutchinson, Jr., J.E. Marshall, Jr., Ned M. Albright, Marshall E. Walker, C.D. Reid, Jr., Robert A. Fewell, J.W. Anderson, Jr., David Goode Anderson, Jesse G. Anderson, John Wesley Anderson, City of Rock Hill, Roddey Estates, Inc., Herald Publishing Co., Rock Hill, S.C., 11-4-80; Flint Realty and Construction Co., W. Watson Barron, Southern Railway Co., F.S. Barnes, Jr., Home Federal Savings and Loan Association of Rock Hill, Rock Hill Printing & Finishing Co., Celanese Corp. of America, Annie F. Harris, John S. Simpson, Rock Hill, S.C., 11-5-80; Bowater Carolina Corp., Catawba, S.C., 11-4-80; Ashe Brick Co., Van Wyck, S.C., 11-5-80; John M. Spratt, York, S.C., 11-5-80.

DATE	NR.	PROCEEDINGS
11-13-80	—	USM RETURN of svc. of S&C on deft., Catawba Timber Co. Calhoun, Tenn., 11-6-80
11-19-80	—	NOTICE OF APPEARANCE by Philip E. Wright represents County of Lancaster consisting of County Council, w/cert of svc.
11-19-80	4	MOTION (REF 11-20-80) by pltf. for an extension of time for defts to answer
11-19-80	5	AFFIDAVIT of Jean H. Toal in support of motion for ext of time for defts to answer
11-20-80	6	ORDER (CES, JR) that time of the defts. in which to answer or otherwise plead to the Complaint of the pltf. is extended to and including 20 days following the issuance by this Court of an Order disposing of the pltf's motion to certify the deft. class MLD EOD 11-20-80
11-24-80	—	NOTICE OF APPEARANCE by Parker Whedon as counsel for Thomas B. Snodgrass Jr.
11-24-80	—	CERTIFICATE OF SERVICE by pltf. showing svc of Order (CES, JR) of 11-20-80 on defts. w/cover letter
11-25-80	—	NOTICE OF APPEARANCE by Robert M. Ward Representing deft. Celanese Corp. impleaded as Celanese Corp of America
11-25-80	—	NOTICE OF APPEARANCE by Robert M. Ward representing deft. Rock Hill Printing and Finishing Co.
11-25-80	—	NOTICE OF APPEARANCE by Robert M. Ward representing deft. Herald Publishing Co.
11-25-80	—	NOTICE OF APPEARANCE by William I. Ward representing deft. Duke Power Co. and Crescent Land & Timber Corp.

DATE	NR.	PROCEEDINGS
11-25-80	—	NOTICE OF APPEARANCE by W. Wallace Gregory, Jr., Representing defts. Duke Power Co. and Crescent Land & Timber Corp.
11-26-80	—	NOTICE OF APPEARANCE by O.G. Calhoun representing deft. Bowater Carolina Corp.
11-26-80	—	NOTICE OF APPEARANCE by Kenneth P. Woodington, representing deft. State of S.C., Richard W. Riley as Gov. of the State of S.C.
11-28-80	—	NOTICE OF APPEARANCE by W. Ryan Hovis representing deft. Flint Realty & Const. Co.
12-2-80	—	NOTICE OF APPEARANCE by C.W.F. Spencer, Jr., Emil W. Wald, representing City of Rock Hill w/cert of mailing
12-2-80	—	NOTICE OF APPEARANCE by C.W.F. Spencer, Jr., Emil W. Wald, representing Citizens and Southern Bank of South Carolina w/cert of mailing
12-3-80	—	NOTICE OF APPEARANCE by Palmer Freeman, Jr., representing deft. J. M. Hinson
12-9-80	—	NOTICE OF APPEARANCE by R. Carl Hubbard, representing defts., Hugh William Close, James Bradley, Lillian Crandall Close, Francis Allison Close, Leroy Springs Close, Patricia Close, William Elliott Close, and Hugh William Close, Jr. w/letter of mailing
12-9-80	—	NOTICE OF APPEARANCE by Nolen L. Brunson representing defts. Duke Power Co. and Crescent Land & Timber Corp.
12-18-80	—	USM RETURN of svc of S&C on deft., C.H. Albright, Rock Hill, S.C., 12-15-80
12-26-80	—	NOTICE OF APPEARANCE (36) by J.D. Todd, Jr., representing defts. C.H. Albright, Ned Albright, John Wesley, Jr., Jessie G.

DATE	NR.	PROCEEDINGS
		Anderson, John Wesley Anderson, David Goode, Anderson Ardrey Farms, W.B. Ardrey, Elizabeth Ardrey Grimbball, Ashe Brick Co., F.S. Barnes, Jr., Archie B. Carroll, Jr., R.A. Fewell, Annie F. Harris, Theodore W. Hutchinson, W.A. McCorkle, Jr., Mary T. McCorkle, F.M. Mack, Jr., J.E. Marshal, Jr., Nisbet Farms, Inc., Eugina Nisbet White, Mary Nisbet Purvis, Elizabeth Nisbet Martin, W.O. Nisbet, III, William O. Nisbet, Janet Nisbet Goode, Rebecca Nisbet Rencher, William R. Simpson, Robert T. Simpson, John S. Simpson, Thomas Brown Snodgrass, Marshall W. Walker, Hudg M. White, Jr., Robert T. Yoder, Heirs of John Marshall Wilkins, II, Heirs of John W. Ardrey w/letter of mailing
12-26-80	—	NOTICE OF APPEARANCE by J.D. Todd, Jr., representing defts., Celanese Corp. of America; Wachovia Bank and Trust Co.; and Tega Cay Association, now known as The Point Wylie Co. w/letter of mailing
12-26-80	—	NOTICES OF APPEARANCE (16) by J.D. Todd, Jr.; O.G. Calhoun; John C. Christie; Dan M. Byrd, Jr., representing defts., Bowater Carolina Corp.; Catawba Timber Co.; Crescent Land and Timber Corp.; Duke Power Co.; Rock Hill Printing and Finishing Co., Southern Railway Co.; Springs Mills, Inc.; Hugh William Close; James Bradley; Lillian Crandle Close; Frances Allison Close; Leroy Springs Close; Patricia Close; William Elliott Close; Hugh William Close, Jr., Church Heritage Village & Missionary Fellowship w/letter of mailing
1-5-81	—	USM RETURN of svc of S&C&Motion on deft., Pauline B. Gunter Pembroke, N.C., 12-19-80

DATE	NR.	PROCEEDINGS
1-12-81	7	STATUS CONFERENCE ORDER (JPW) directing clerk to enter this Order; agrees w/ Order (CES, JR) of Court 11-20-81; it is directed that the status conference be held at Cola., Wed., 2-18-81 at 10:00 A.M.; clk to svc cpys of Order on counsel of Record. MLD EOD 1-13-81
1-20-81	—	LETTER showing Lynn B. Dutton, General Attorney, Southern Railway
1-20-81	—	NOTICE OF APPEARANCE (3) by David A. White, Esq. representing Roddey Estates, Inc.; W. Watson Barron; C.D. Reid, Jr.,
1-30-81	—	NOTICE OF APPEARANCE by John M. Spratt, Jr., representing Hiram Hutchinson, Jr., John M. Spratt, Jr., (pro se) and Heritage Village Church and Missionary Fellowship, Inc. w/letter of mailing
2-2-81	—	NOTICE OF APPEARANCE by Mitchell K. Byrd and J.D. Todd, Jr., representing Deft., Pauline Gunter,
2-12-81	—	MOTION FOR LEAVE TO APPEAR (REF 2-18-81) by deft., the State of SC, Richard W. Riley as Gov.; County of Lancaster, etc.; City of Rock Hill, etc.; unnamed propsective members of the ceft. class the County of York and the Town of Fort Mill w/letter of mailing (mem incorporated) to admit certain counsel from out of state
2-16-81	—	LETTER removing O.G. Calhoun and John C. Christie as counsel for defts., Heritage Village Church and Missionary Fellowship, Inc.
2-17-81	8	MEMORANDUM (RECEIVED) (COPY) by various named defts., in response to Order (JPW) filed 1-12-81, w/cert. of svc.
2-18-81	—	STATUS CONFERENCE (JPW, gs) discussion on procedure, whether to certfy class or proceed on rule 12(b) motions- Court grants

DATE	NR.	PROCEEDINGS
		plt counsel 30 days to file further memos in support of certification, then will rule on if class to be certified or proceed on motions
2-18-81	9	ORDER (JPW) that Bowater North American Corporation be substituted as party deft in place of Bowater Carolina Corporation. MLD EOD 2/18/81
3-17-81	—	NOTICE OF APPEARANCE by Daivd A. White representing deft., J.P. Stevens Co.
3-20-81	10	MEMORANDUM (RECEIVED) by pltfs in response to the mem of various defendant in response to Court's Status Conf. Order. w/cert. of svc. w/attachments
3-30-81	11	MEMORANDUM (RECEIVED) by various defts., concerning the Order of 1-12-81 w/ attachments and cert of svc.
4-10-81	—	TRANSCRIPT of hearing held 2-18-81 ——— William 4-14-81 Vol. II
4-20-81	12	ORDER (JPW) 1-defts have 60 days from date of Order to file motion pursuant to rule 12(b) 2-pltf have 60 days to file a response to rule 12(b) motions 3-defts have 30 days to reply to pltf's response to the 12(b) motions 4-all matters in litigation are stayed except those pertaining to 12(b) motions including class action certification motions and rule 56 motions 5-further proceedings shall be held in Rock Hill unless otherwise specified by the Court 6-times become eff when order filed w/Court MLD EOD 4-20-81

DATE	NR.	PROCEEDINGS
6-19-81	—	MOTION (REF 6-25-81) by defts to dismiss for failure to state a claim w/attached table of contents, table of authorities, Federal Statutes; w/cert of svc.
6-19-81	—	MEMORANDUM (RECEIVED) by defts in support of motion to dismiss w/cert. svc. (att to motion)
6-19-81	—	APPENDIX (RECEIVED) of memorandum in support of motion to dismiss defts. Vol. III
6-25-81	—	MOTION (REF 6-14-82) corrected and substituted copy of the defts. to dismiss for failure to state a claim w/attached cert of svc. Vol. IV
6-25-81	—	MEMORANDUM (RECEIVED) by deft. in support of motion to dismiss (corrected and substituted copy) w/cert of svc. Vol. I
8-26-81	—	RESPONSE (RECEIVED) by pltf to deft's motion to dismiss w/exhibit in separate bound folder, w/cert of svc. Vol. V and VI
09-18-81	13	HEARING ORDER (JPW) counsel will refer to J.P.W.'s order of April 20, 1981, relating to defts' 12(b) motions to pltf's response and the reply and briefs of counsel; a hearing is set for Wednesday, Oct. 28, 1981, at Rock Hill commencing at 10:00 a.m. at which time defts may present oral argument plaintiffs will be heard in reply at 2:00 P.M. on same date. In the event the arguments are unfinished on the 28th this Court will be avail the next day, Oct. 29. EOD 09-21-81. MLd.
9-18-81	—	REPLY MEMORANDUM (RECEIVED) by defts in support of Motion to Dismiss w/cert. svc. Vol. VII

DATE	NR.	PROCEEDINGS
10-20-81	14	MOTION (Ref 10-28-81) by pltf. for leave to file supplemental memorandum in response to defts' motion to dismiss w/cert of svc.
10-20-81	15	MEMORANDUM (RECEIVED) by pltf. in support of motion for leave to file supplemental meorandum and supplemental memorandum w/cert of svc.
10-28-81	—	MOTION HEARING (JPW/jl) deft's motion to dismiss - argued, pltf's given 60 days to submit material supporting tribal existence deft's to respond. Case cont for 60 days; Pltf's motion for leave to file supplemental mem. - granted; deft's request for motion to dismiss or in the alt for s/j - heard
10-28-81	—	MEMORANDUM (RECIEVED) by defts. in response to pltf's suppl mem (w/cert of svc.) Vol. VIII
10-30-81	16	MEMORANDUM AND ORDER (JPW) stating the decision of the motion to dismiss will be based on Rule 56; directing counsel to obtain info from the BIA as to the relationship between them (BIA) and the Indians (re - tribal status) either in the form of aff, cert, or record during the intervening years (except 1943 - 1962) w/in 60 days counsel to file such material in support of or contra to the motion under rule 56 at which time a further hearing will be directed. mdleod 10-30-81
11-25-81	17	MOTION (REF ———) by defts for supplemental order w/cert of svc. (w/attached prop order)
11-25-81	18	MEMORANDUM (RECIEVED) by defts in support of motion for supplemental order w/attached cpy of letter w/cert of svc.

DATE	NR.	PROCEEDINGS
12-7-81	19	MEMORANDUM (RECEIVED) by pltf. in response to defts motion for entry of supplemental order w/cert. of svc.
12-12-81	20	MOTION (Ref) w/cert. svc. by defts for leave to file supplemental memorandum w/memo in support incorporated. (Original Supplemental Memorandum attached).
12-14-81	21	ATTACHMENT (RECEIVED) by defts. Denison opinion to be attached to mem w/letter of mailing
1-7-82	—	TRANSCRIPT of hearing held 11-28-81 Vol. IX
1-18-82	22	MEMORANDUM AND ORDER (JPW) on or before 2-26-82, pltf and moving defts shall submit proposed orders for the resolution of the motion for s/j; orders to address only the issues briefed and argued by the parties; defts appendices and pltf's exhibits stipulated that they are in evidence and are a historical record and are the basis for the ruling on the motion; w/in 20 days after the prop orders are exchanged by counsel supplemental briefs may be filed; thereafter oral arguments may be directed; eff when filed w/ clerk in Cola. mld eod 1-18-82
2-26-82	23	PLAINTIFF'S PROPOSED ORDER w/cert of svc.
2-26-82	—	DEFENDANTS' PROPOSED ORDER GRANTING SUMMARY JUDGMENT w/cert of svc. Vol. X
3-22-82	—	DEFENDANTS' SUPPLEMENTAL MEMORANDUM (RECEIVED) concerning pltf's proposed order w/cert of svc. Vol. XI
3-22-82	—	PLAINTIFF'S SUPPLEMENTAL MEMORANDUM (RECEIVED) concerning deft's motion for s/j-w/cert of svc. Vol. XII
4-8-82	24	MOTION (REF ———) by pltf for leave to file memorandum in rebuttal to deft's sup-

DATE	NR.	PROCEEDINGS
		plemental memorandum w/cert of svc. (mem incorporated in body of motion)
4-16-82	25	MOTION (REF ———) by defts for leave to file response to pltf's rebuttal memorandum w/cert of svc.
4-16-82	—	MEMORANDUM (RECEIVED) (Copy) by defts in support of motion for leave to file response to pltf's mem w/cert of svc. Vol. XIII
6-14-82	26	MEMORANDUM AND ORDER (JPW) granting deft's motion for s/j mld eod 6-14-82
6-14-82	27	JUDGMENT ORDER (JPW) entering s/j for the defts and ending action mld eod 6-14-82 JS6
7-9-82	28	NOTICE OF APPEAL by pltf.; cc's to counsel, 4CCA, Court Reporter Court (JPW).
7-12-82	29	AMENDED NOTICE OF APPEAL by pltf.; cc's to counsel, 4CCA, Court Reporter Court (JPW).
9-23-82	30	STIPULATION OF DESIGNATION OF RECORD by parties.
—	31	Clerk's Certificate
9/29/82		Record on Appeal forwarded to 4CCA, in 13 volumes; case papers in Vol. I, transcripts in volume II & IX, motions & memoranda in volumes III thru VIII and X through XIII.
10/17/83		Opinion of 4CCA reversing judgment of District Court and remanding for entry of order denying defendants' motion for summary judgment and for further proceedings consistent with this opinion.
6/10/85		Order copy of U.S. Supreme Court granting defendant's petition for writ of cert.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Docket No. 82-1671

CATAWBA INDIAN TRIBE OF SOUTH CAROLINA,
also known as the CATAWBA NATION OF SOUTH CAROLINA,
Appellant,

v.

STATE OF SOUTH CAROLINA, *et al.*,
Appellees.

RELEVANT DOCKET ENTRIES

DATE	FILINGS—PROCEEDINGS
08/03/82	Case docketed. Awaiting ROA. tcb
08/13/82	DISCLOSURE STMNT, E (Southern Railway Co.), Y, filed. tcb
08/16/82	DISCLOSURE STMNT, E (Brunson), N, filed. tcb
08/18/82	DISCLOSURE STMNT, E (Lancaster Co.), N, filed. tcb
08/18/82	DISCLOSURE STMNT, E (Flint Realty, etc.), N, filed. tcb
08/19/82	DISCLOSURE STMNT, Es, Y, filed. tcb
08/20/82	DISCLOSURE STMNT, E (C&S Nat'l Bk), Y, filed. tcb
08/20/82	DISCLOSURE STMNT, E (First American Title), Y, filed. tcb
08/20/82	DISCLOSURE STMNT, E (Rock Hill), N, filed 8/16/82. tcb

DATE	FILINGS—PROCEEDINGS
08/20/82	DISCLOSURE STMNT, E (Celanese Corp.), N, filed 8/16/82. tcb
08/20/82	DISCLOSURE STMNT, E (Herald Pub.), N, filed 8/16/82. tcb
08/20/82	DISCLOSURE STMNT, E (Spring Mills), Y, filed 8/19/82. tcb
08/20/82	DISCLOSURE STMNT, E (Ashe Brick), Y, filed 8/19/82. tcb
08/20/82	DISCLOSURE STMNT, E (Nisbet Farms), Y, filed 8/19/82. tcb
08/20/82	DISCLOSURE STMNT, Es, N, filed 8/16/82. tcb
08/20/82	DISCLOSURE STMNT, E (State of SC), N, filed. tcb
08/23/82	DISCLOSURE STMNT, E (J.P. Stevens), N, filed. tcb
09/07/82	DISCLOSURE STMNT, Es, Y, filed. tcb
09/27/82	DISCLOSURE STMNT, E (Duke Power), N, filed. tcb
09/27/82	DISCLOSURE STMNT, E (Crescent Land & Timber), N, filed. tcb
10/07/82	BRIEFING ORDER filed, A due 11/16/82. tcb
10/07/82	ORDER requiring joint brief per side, filed. tcb
11/16/82	Four page proof copies of the A brief filed HD/rba
11/16/82	JOINT MOTION (K-186) of parties for leave to defer preparation of appendix pursuant to Rule 30(c), FRAP, filed (CRL:jeh)
11/23/82	ORDER granting motion to defer preparation of appendix pursuant to Rule 30(c), FRAP, filed (CRL:jeh) Copy to counsel of record
12/10/82	MOTION (L-84) of Es for enlargement of time to file brief, filed (CRL:jeh)
12/17/82	ORDER extending time to file Es' brief to 12/20/82, filed (CRL:jeh) Copy to counsel of record

DATE	FILINGS—PROCEEDINGS
12/23/82	MOTION (L-153) of A for enlargement of time to file reply brf. filed. (CRL:fls)
12/29/82	ORDER denying A's motion to ext. time to file page-proof reply/brf. filed. (CRL:fls) Copy to Steele-Jolly; Miller; Hubbard; Brunson; Ward; Lee-Erichsen-Quarles-St. Clair; White; Dutton; Spencer; Woodington; Mack; Byrd-Byrd; Duncan-Hovis; Wright; McConathy-Landes-Christie; Todd; Ward-Gregory. (jt. appx. due 1/26/83.)
12/20/82	FOUR (4) Page-Proof copies of the Appellee's Brief filed. mb
01/27/83	MOTION (A-209) of A for leave to file reply brief in excess of 25 pages, filed. (PLM:bel) MOTION DENIED.
2/11/83	MOTION (B-87) of Es for leave to file a brief in response to new matter raised in A's reply brief, filed (BMM:jeh) Submitted to KKH, JMS, JDB on 2/18/83
2/23/83	ORDER entered at the direction of JDB granting motion (B-87). Copies mailed to Steele/Jolly, Miller, Hubbard, Brunson, Ward, Lee/Erichsen Quarles/St. Clair, White, Dutton, Spencer, Woodington, Mack, Byrd/Byrd/Black, Duncan/Hovis, Wright, McConathy/Landes/Christie, Todd, Ward/Gregory, Bender/Toal, Jones. (BMM:jd)
2/24/83	A Memorandum in oposition to E's motion to file supplemental brief. (B-87)
2/24/83	E's motion (B-214) for enlargement of time for oral argument. Submitted to panel (KKH/JMS/JDB) BMM:jd

DATE	FILINGS—PROCEEDINGS
3/3/83	ORDER denying E's motion (B-214) for enlargement of time for oral argument. BMM:jd Copies to Steele, Jolly, Miller, Hubbard, Brunson, Ward, Lee, Erichsen, Quarles, St. Clair, White, Dutton, Spencer, Woodington, Mack, Byrd, Duncan, Wright, McConathy, Todd, Ward, Bender, Toal, Jones.
03/07/83	DISCLOSURE STMNT, A, Y, filed. tcb
9/1/83	Supplemental Authority submitted by E and filed. jd Transmitted to KKH/JMS/JDB on 9/2/83. (BMM:jd)
10/25/83	PETITION FOR REHEARING (J-124) and suggestion for rehearing en banc of Es, filed (SAW:jm) Transmitted to KKH, JMS, JDB w/copy to circuit judges on 10/26/83
11/16/83	ANSWER of A to petition for rehearing and suggestion for rehearing en banc filed (SAW:jm) Transmitted to KKH, JMS, JDB w/copy to circuit judges on 11/17/83
12/20/83	ORDER granting rehearing en banc. (BMM:jd) Copy to counsel.
9/5/84	MOTION of Es (I-20) for stay of mandate, filed. jd Transmitted to in banc ct. on 9/7/84. (BMM:jd)
9/20/84	ORDER granting motion of Es for stay of mandate, filed (SAR:jm) Copy to Steele-Jolly; Miller; Hubbard; Brunson; Grier; Lee-Erichsen-Quarles-St. Clair; White; Spencer; Woodington; Mack; Byrd-Byrd; Duncan-Hovis; Wright; McConathy; Todd; Ward-Gregory; Bender-Toal; Jones; Dutton; Lanes-Christie

DATE	FILINGS—PROCEEDINGS
10-15-84	Motion (J-99) of Es for a 30-day extension of this Court's stay of mandate pending application for certiorari, filed (SAR:cw)
10-17-84	LETTER granting Es motion J-99, filed (SAR:cw) Copy sent to Steele; Miller; Hubbard; Brunson; Grier; Lee-Erichsen-Quarles-St. Clair; White; Spencer; Woodington; Mack; Byrd-Byrd; Duncan-Hovis; Wright; McConathy-Landes-Christie; Todd; Ward-Gregory; Bender-Toal; Jones; Dutton.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Civil No. 80-2050-6

CATAWBA INDIAN TRIBE OF SOUTH CAROLINA,
also known as the
CATAWBA NATION OF SOUTH CAROLINA,
Plaintiff,

v.

STATE OF SOUTH CAROLINA, RICHARD W. RILEY as Governor of the State of South Carolina; COUNTY OF LANCASTER, and its County Council consisting of FRANCIS L. BELL as Chairman, FRED E. PLYLER, ELDRIDGE EMORY, ROBERT L. MOBLEY, BARRY L. MOBLEY, L. EUGENE HUDSON, LINDSAY PETTUS; CITY OF ROCK HILL, J. EMMETT JEROME, as Mayor, and its City Council consisting of MELFORD A. WILSON, ELIZABETH D. RHEA, MAXINE GILL, WINSTON SEARLES, A. DOUGLAS ECHOLS, FRANK W. BERRY, SR.; BOWATER CAROLINA CORPORATION; CATAWBA TIMBER CO.; CELANESE CORPORATION OF AMERICA; CITIZENS AND SOUTHERN NATIONAL BANK OF SOUTH CAROLINA; CRESENT LAND & TIMBER CORP.; DUKE POWER COMPANY; FLINT REALTY AND CONSTRUCTION COMPANY; HERALD PUBLISHING COMPANY; HOME FEDERAL SAVINGS AND LOAN ASSOCIATION; ROCK HILL PRINTING & FINISHING COMPANY; RODDEY ESTATES, INC.; SOUTHERN RAILWAY COMPANY; SPRINGS MILLS, INC.; J. P. STEVENS & COMPANY; TEGA CAY ASSOCIATES; WACHOVIA BANK AND TRUST COMPANY; ASHE BRICK COMPANY; CHURCH HERITAGE VILLAGE & MISSIONARY FELLOWSHIP; NISBET FARMS, INC.; C. H. ALBRIGHT, NED ALBRIGHT; J.W. ANDERSON, JR., JOHN MARSHALL WILKINS II, JESSE G. ANDERSON,

JOHN WESLEY ANDERSON, DAVID GOODE ANDERSON;
 W.B. ARDREY, JR., ELIZABETH ARDREY GRIMBALL, JOHN
 W. ARDREY, ARDREY FARMS; F. S. BARNES, JR.; W.
 WATSON BARRON, WILSON BARRON; ARCHIE B. CAR-
 ROL, JR.; HUGH WILLIAM CLOSE, JAMES BRADLEY,
 FRANCIS LAY SPRINGS, LILLIAN CRANDALL CLOSE,
 FRANCIS ALLISON CLOSE, LEROY SPRINGS CLOSE, PA-
 TRICIA CLOSE, WILLIAM ELLIOT CLOSE, HUGH WILLIAM
 CLOSE, JR.; ROBERT A. FEWELL; W. J. HARRIS, ANNIE
 F. HARRIS; T.W. HUTCHINSON, HIRAM HUTCHINSON,
 JR.; J. R. MCALHANEY; F. M. MACK, JR.; ARNOLD F.
 MARSHALL; J. E. MARSHALL, JR.; C. D. REID, JR.;
 WILL R. SIMPSON, JOHN S. SIMPSON, ROBERT F. SIMP-
 SON; THOMAS BROWN SNODGRASS, JR.; JOHN M. SPRATT;
 MARSHALL E. WALKER; HUGH M. WHITE, JR.; JOHN
 M. BELK; JANE NISBET GOODE, R. N. BENCHER, W. O.
 NISBET III; PAULINE B. GUNTER; J. MAX MINSON;
 W. A. MCCORKLE, MARY MCCORKLE; WILLIAM O.
 NISBET; EUGENIA NISBET WHITE, MARY NISGET PURVIS,
 E. N. MARTIN; ROBERT M. YODER,

Defendants.

COMPLAINT

NATURE OF THE ACTION

1. This is a civil action seeking a declaration of the ownership and right of possession of the Catawba Indian Tribe to the lands within its 1763 Treaty reservation in York, Lancaster and Chester Counties, South Carolina, which lands are subject to restrictions against alienation under federal law. The Catawba Tribe also seeks to be restored to possession of its reservation lands and seeks historic trespass damages for the period of its dispossession. Defendant are sued individually and as representatives of all similarly situated persons pursuant to Rule 23 of the Federal Rules of Civil Procedure.

JURISDICTION

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1337 and 1362. The amount in controversy exceeds \$10,000, exclusive of interest and costs with respect to each defendant.

3. Plaintiff's claims for relief arise under the 1760 Treaty of Pine Tree Hill; the Proclamation of October 7, 1763; the November 10, 1763 Treaty of Augusta, Article I Section 8 and Article 6 of the United States Constitution; and the Indian Nonintercourse Act, 25 U.S.C. § 177.

DESCRIPTION OF THE SUBJECT LAND

4. From time immemorial to the time of the acts complained of herein, the Catawba Tribe owned and occupied a tract of land roughly 15 miles square, or 144,000 acres, which land was surveyed and set aside for their exclusive use and occupancy pursuant to two treaties with the British Crown in 1760 and 1763. The reservation was surveyed by Samuel Wyly and a copy of his map of the reservation, dated February 22, 1764, is annexed hereto as Exhibit A. The boundary of the reservation begins at the confluence of Twelve Mile Creek and the Catawba River and continues along Twelve Mile Creek in a northeasterly direction to the point where Twelve Mile Creek intersects the present boundary between North and South Carolina. From there, the reservation boundary follows the boundary between North and South Carolina to the northwest approximately fifteen miles and then to the southwest, at an angle of 90 degrees, approximately seven and one-half miles to the Catawba River. From there, the boundary between the states separates from the reservation boundary, the reservation boundary continuing in a straight line approximately an additional seven and one-half miles to a point west of the present city of Rock Hill, South Carolina. From there, the boundary continues at an angle of 90 degrees in a straight line to the southeast for a distance of approximately fifteen miles to a point

south of the City of Rock Hill and thence in a northeasterly direction to the point of origin at the confluence of the Catawba River and Twelve Mile Creek. Exempted from the subject lands are the lands described in Paragraphs 12 and 13 of this Complaint.

PARTIES

5. Plaintiff Catawba Indian Tribe of South Carolina is a tribe of Indians which has resided in the State of South Carolina since time immemorial. The Tribe presently resides on approximately 630 acres outside the City of Rock Hill, South Carolina, which lands are held in beneficial trust for the Tribe by the State of South Carolina. The Catawba Tribe is duly organized under the laws of the State of South Carolina as a non-profit corporation. Plaintiff Catawba Indian Tribe, Inc., is the successor to the Catawba Indian Tribe which was signatory to the Treaty of Pine Tree Hill in 1760 and the Treaty of Augusta in 1763.

6. The defendants, and each of them, claim an interest in and title to certain of the lands which are the subject matter of this litigation.

7. Any defendant who claims any portion of the subject land purporting to act as an officer of the State of South Carolina, does so in excess of such defendant's authority as an officer of the State of South Carolina and in violation of 25 U.S.C. § 177, and Article VI of the Constitution of the United States.

8. The named defendants are sued both individually and as representatives of all other persons who assert an interest in any portion of the subject lands, excepting members of the Catawba Indian Tribe of South Carolina.

9. The above described class exceeds 27,000 thousand persons and is so numerous that joinder of all members is impracticable; all questions of law and fact relating to the basic issue of liability are common to the class of de-

fendants and the defenses of the named representative parties are typical of the defenses of the class of defendants; the named representative parties include major public and private claimants of the subject land and the named defendants will fairly and adequately protect the interests of the class of defendants.

10. The prosecution of separate actions against individual members of the defendant class would create a risk of inconsistent or varying judgments which would, as a practical matter, substantially impair the ability of other class members, not parties to the judgments, to protect their interests.

11. The questions of law and fact common to the class predominate over questions affecting only individual members and a defendant class action is superior to other procedures for the fair and efficient adjudication of the controversy.

FACTS OF THE CLAIM

12. In 1760, the Honorable Edmund Atkin, Esq., His Majesty the King of England's Agent to and Superintendent for Indian Affairs in the Southern District of North America, negotiated a Treaty with the Catawba Indian Nation whereby the Catawba Nation agreed to surrender its claims to a tract encompassing all lands within a 30 mile radius of the Catawba towns, which tract had been recognized as Catawba Indian Country by the Colony of South Carolina, in return for being permanently and quietly settled on a tract of land fifteen miles square, which was to be surveyed to prevent intruders and upon which a fort was to be built for the Catawba's protection. This treaty is known as the Treaty of Pine Tree Hill.

13. On October 7, 1763, King George III of England issued a Proclamation which ordered that no warrants of survey or patents be issued upon any lands which had

been reserved to the Indians and further forbade private purchases of lands from the Indians and settlement upon Indian lands.

14. On November 10, 1763, the Governors of the Southern Colonies, including South Carolina, and His Majesty's Superintendant for Indian Affairs in the Southern District, John Stuart, negotiated the Treaty of Augusta with, among others, the Catawba Indian Nation, which Treaty provided that the Catawba Nation would remain satisfied with the agreement contained in the 1760 Treaty of Pine Tree Hill and the Governors and Superintendant on their part promised that the terms of the Treaty of Pine Tree Hill would be fulfilled.

15. On July 22, 1790, Congress enacted the Indian Trade and Intercourse Act, presently codified at 25 U.S.C. § 177, which provided then as it does now that no interest of any kind may be acquired in the lands of any Indian tribe other than by treaty or convention entered into pursuant to the Constitution, to which the United States is a party. Any interest acquired in violation of 25 U.S.C. § 177 is void in law and equity.

16. On March 3, 1840, the State of South Carolina, without the consent and participation of the United States, concluded the Treaty of Nation Ford between the State and the Catawba Indian Tribe, whereby the State purported to extinguish the Indian title of the Catawba Tribe to the entire 15 mile square tract secured to the Tribe in the 1760 and 1763 Treaties described in paragraphs 12 and 14 above. In return, the State promised to purchase for the Catawbas, at a cost of \$5,000, a tract of land either in Haywood County, North Carolina, or in a similarly mountainous and unpopulated area in South Carolina and in addition agreed to pay the Tribe \$2,500 cash and \$1,500 per year for nine years.

17. On December 18, 1840, the Legislature of the State of South Carolina enacted legislation ratifying and

confirming the March 3, 1840 State treaty, which Act provided for the conveyance of the title and interest purportedly acquired by the State of South Carolina in Catawba Reservation lands to the non-Indian lessees of such lands upon the application and payment by the lessees of certain fees or taxes.

18. The Congress of the United States has never ratified or otherwise consented to the alienation of the Catawba Indian Reservation as required by 25 U.S.C. § 177. The title or right of possession to the Catawba Indian Reservation lands which are the subject of this suit thus remains in the Catawba Indian Tribe and the subject land is not and never has been the property of any other person or party. The Tribe's right and title to these lands is now and has since 1789 been protected by the Fifth Amendment to the United States Constitution.

19. The State did not purchase a new reservation for the Catawba Tribe in North Carolina or in South Carolina as required by the 1840 Treaty. Instead, in 1842 the State of South Carolina purchased for the Catawba Tribe a 630 acre tract, located within the boundaries of the 1763 reservation which the Tribe purportedly ceded in the 1840 Treaty, for the sum of \$2,000, which tract remains to this day the only lands actually occupied and enjoyed by the Catawba Tribe and these lands are exempted from this claim.

20. In 1943, the Catawba Tribe, the State of South Carolina, and the United States Department of the Interior entered into a Memorandum of Understanding whereby 3,434 acres of land, more or less, all of which was within the boundaries of the 1763 Treaty reservation, was acquired and taken into trust by the Secretary of the Interior for the Catawba Tribe. In 1959, Congress enacted the Catawba Division of Assets Act, Public Law 86-322, 73 Stat. 592, 25 U.S.C. §§ 931-8, which Act lifted federal restrictions on alienation to the 3,434 acres, more or less, acquired for the Tribe pursuant to

the 1943 Memorandum of Understanding and those lands are exempted from this claim.

CLAIM FOR RELIEF

21. The 1840 transaction between the State of South Carolina and the Catawba Indian Tribe, known as the Treaty of Nation Ford, was void for violation of the 1760 Treaty of Pine Tree Hill, the Proclamation of 1763, the 1763 Treaty of Augusta, the Indian Nonintercourse Act (25 U.S.C. § 177) and Article 1, Sections 8 and 10 of the United States Constitution, and any right, title, or interest purportedly acquired pursuant to the 1840 Treaty of Nation Ford is likewise void.

22. Defendants and each of them claim an interest in or ownership to a portion of the subject lands and are keeping plaintiff out of possession of its lands in violation of the 1760 Treaty of Pine Tree Hill, the 1763 Treaty of Augusta, the Proclamation of 1763, the Indian Nonintercourse Act, 25 U.S.C. § 177, Article I section 8 of the United States Constitution and Article 6 of the United States Constitution. Such violations infringe upon plaintiff's title and right of possession to the subject lands as protected by 25 U.S.C. § 177 and keep plaintiff out of possession of its lands to plaintiff's great damage.

23. Defendant State of South Carolina, by entering into the 1840 transaction, known as the Treaty of Nation Ford, with the Catawba Indian Tribe and thereby purporting to acquire the right, title and interest of the Catawba Tribe in its treaty reservation without the consent or participation of the United States, violated the provisions of the Nonintercourse Act, presently codified at 25 U.S.C. § 177, and Article I, Sections 8 and 10, of the United States Constitution. Such violations infringe upon plaintiff's title and right of possession to the subject lands, protected by 25 U.S.C. § 177 and keep

plaintiff out of possession of its lands to plaintiff's great damage.

WHEREFORE, Plaintiff prays that this Court:

1. Order that this action shall be maintained as a class action pursuant to Rule 23, Fed. R. Civ. P., upon such terms as the Court deems just;

2. Declare that plaintiff has the right to possession of every portion of the subject land which is claimed or possessed by any defendant;

3. Order that plaintiff be restored to immediate possession of all portions of the subject land which are claimed in whole or in part by any defendant or member of the defendant class, as such lands are described in paragraph 4 of this Complaint, except that plaintiff does not request such relief with respect to the lands described in paragraphs 19 and 20 of this Complaint or any lands which are owned by a member of plaintiff Catawba Tribe of Indians.

4. Declare that plaintiff is entitled to receive trespass damages, including the amount of the fair rental value and profits for each portion of the subject land claimed by any defendant for the entire period of plaintiff's dispossession; and determine the amount of such damages and profits.

5. Award plaintiff the costs of this action and attorneys fees; and

6. Award such other and further relief as the Court deems just.

DATED:

Respectfully submitted,

DON B. MILLER
Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302
(303) 447-8760

JEAN H. TOAL
Belsor, Baker, Barwick, Toal & Bender
Suite 303, 1213 Lady Street
P.O. Box 11848
Columbia, South Carolina 29211
(803) 799-9091

ROBERT M. JONES
MIKE S. JOLLY
RICHARD STEELE
123 Workman Street
Rock Hill, South Carolina 29730
(803) 327-1179

Attorneys for Plaintiff

[Map dated February 22, 1764 attached to the
Complaint as Exhibit A omitted in printing]

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA

C. A. No. 80-2050

CATAWBA INDIAN TRIBE OF SOUTH CAROLINA,
Plaintiff,

vs.

STATE OF SOUTH CAROLINA, *et al.,*
Defendants.

MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(6) and this Court's Order filed April 20, 1981, certain named defendants move to dismiss the Complaint for failure to state a claim upon which relief can be granted.

This Motion is based on legislation enacted in 1959 and commonly referred to as the "Catawba termination act." 25 U.S.C. §§ 931-938. This act has affected the legal status of the Catawbas in a manner which now prevents plaintiff from stating any claim upon which relief can be granted. As more fully set forth in the accompanying Memorandum in Support of Motion to Dismiss, there are four independent grounds for this Motion:

(1) As a consequence of the Catawba termination act, state law, including a state statute of limitation, applies to the plaintiff and clearly bars its claims;

(2) As a consequence of the Catawba termination act, plaintiff is not an "Indian tribe" within the meaning of the Nonintercourse Act. 25 U.S.C. § 177;

(3) As a consequence of the Catawba termination act, the challenged transfer has been ratified by Congress; and

(4) As a consequence of the Catawba termination act, the plaintiff cannot establish the continuing trust relationship with the United States required by the Nonintercourse Act.

For all of the reasons discussed in the accompanying Memorandum, defendants request an Order dismissing this action.

Respectfully submitted,

JOHN C. CHRISTIE, JR.
J. WILLIAM HAYTON
STEPHEN J. LANDES
LUCINDA O. MCCONATHY
BELL, BOYD & LLOYD
1775 Pennsylvania
Avenue, N.W.
Washington, D.C. 20006
(202) 466-6300

JAMES D. ST. CLAIR
JAMES L. QUARLES III
WILLIAM F. LEE
DAVID H. ERICHSEN
HALE and DORR
60 State Street
Boston, Massachusetts 02109
(617) 742-9100

DANIEL R. MCLEOD
Attorney General
KENNETH P. WOODINGTON
Assistant Attorney General
State of South Carolina
Rembert Dennis Building
Columbia, South Carolina 29211
(803) 758-8667

J.D. TODD, JR.
MICHAEL J. GIESE
GWENDOLYN EMBLER
LEATHERWOOD, WALKER, TODD
& MANN
217 East Coffee Street
Greenville, South Carolina 29602
(803) 242-6440

DAN M. BYRD, JR.
MITCHELL K. BYRD
BYRD & BYRD
240 East Black Street
Rock Hill, South Carolina 29730
(803) 324-5151

By: /s/ John C. Christie, Jr.
JOHN C. CHRISTIE, JR.

One of the attorneys of record
for the named defendants

PLTF. EX. 6

GOVERNORS' AND SUPERINTENDANT'S REPLY
TO THE CATAWBAS, NOVEMBER 9, 1763
COLONIAL RECORDS OF NORTH CAROLINA

To Col^o Ayres and Brothers of the Catawbas.

It gives us great pleasure and satisfaction to find that the good Talk which we gave you from Our Great King and Father of both the Red and White Children is so satisfactory to you as you have always been fast Friends to all his White children so our King and Father holds out his arms to receive and protect you from all your enemies and is very sensible of your constant Love and Friendship for all your White Brothers and you may be assured of his confirming to you all your just claims to your Lands and Hunting Grounds pursuant to the Agreement made between your Nation and his Governor of South Carolina and Mr Atkins his Superintendant of Indian Affairs upon your having a Fort built for your Protection from your Enemies when you deserted your old Towns which was then agreed upon on both sides to be a square of Fifteen Miles to be laid out on both sides of the Catawba River and part of the Line was actually surveyed.

If you stand to your former Agreement your Lands shall be immediately surveyed and marked out for your use but if you do not your claim must be undecided till our Great King's Pleasure is known on the other side the Waters.

* * * *

[Provisions dealing with the Cherokees omitted]

* * * *

The Catawbas upon appearing satisfied with the Line of 15 Miles square were informed that a new Survey should be made and when the Line was run the People

settled within should be removed and no new Warrants granted them or any others to settle within those Limits. Upon which they desired a new Line should be run out immediately.

The Catawbas being asked if they approved Col^o Ayres as their Chief or Emperor answered unanimously Yes. In consequence of such their Declaration the Governor and Superintendant accepted him.

PLTF. EX. 6

TREATY OF AUGUSTA
COLONIAL RECORDS OF NORTH CAROLINA

At a Congress held at Augusta in the Province of Georgia on the 10th of Nov: in the year of our Lord God 1763, by their Excellencies

James Wright, Georgia
Arthur Dobbs, No Carolina
Thos Boone, So Carolina
Esqrs Governors

The Honble Francis Fauquier Esqre Lieut: Gov: of Virginia and John Stuart Esqre Agent and Superintendant of Southern Indian Affairs.

A Treaty for the Preservation and continuance of a firm and perfect Peace and Friendship Between His most sacred Majesty George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth and the several Indian Chiefs herein named who are authorized by the King's Head Men and Warriors of the Chickesaws Upper and Lower Creeks Chactaws Cherokees and Catawbass for and in behalf of themselves and their several Nations and Tribes

Article 1st

That a Perfect and perpetual Peace and sincere Friendship shall be continued between His Majesty King George the Third and all his subjects and the several Nations and Tribes of Indians herein mentioned that is to say the Chickesaws, Upper and Lower Creeks, Chactaws & Catawbass and each Nation of Indians hereby respectively engages to give the utmost attention to preserve and maintain Peace and Friendship between their People and the King of Great Britain and his subjects and shall not

commit or permit any kind of Hostilities injury or Damage whatever against them from henceforth and from any cause or under any Pretence whatsoever And for laying the strongest and purest foundation for a perfect and perpetual Peace and Friendship His most sacred Majesty has been graciously pleased to pardon and forgive all past offenses and injuries And hereby declares there shall be a general Oblivion of all Crimes Offences and Injuries that may have been heretofore committed or done by any of the said Indian Parties.

Art: 2nd

The Subjects of the Great King George and the aforesaid several Nations of Indians shall forever hereafter be looked upon as one People and the several Governors and Superintendant engage that they will encourage Persons to furnish and supply the several Nations and Tribes of Indians aforesaid with all sorts of Goods usually carried amongst them in the manner in which they now are and which will be sufficient to answer all their Wants.

In consideration whereof the Indian Parties on their Part severally engage in the most solemn manner that the Traders and others who may go amongst them shall be perfectly safe and secure in their several persons and Effects and shall not on any account or pretence whatsoever be molested or disturbed whilst in any of the Indian Towns or Nations or on their journey to or from the Nations.

Art: 3d

The English Governors and Superintendant engage for themselves and their successors as far as they can that they will always give due attention to the Interest of the Indians and will be ready on all Occasions to do them full and ample justice. And the several Indian Parties do expressly promise and engage for themselves severally and for their several Nations and Tribes pursuant to the full Right and Power which they shall have so to do that

they will in all cases and upon all occasions do full and ample justice to the English and will use their utmost endeavours to prevent any of their People from giving any disturbance or doing any damage to them in the Settlements or elsewhere as aforesaid either by stealing their Horses killing their Cattle or otherwise or by doing them any Personal hurt or injury And that if any damage be done as aforesaid satisfaction shall be made for the same to the Party injured and that if any Indian or Indians whatever shall hereafter murder or kill a White Man the Offender or Offenders shall without any delay excuse or pretence whatsoever be immediately put to death in a public manner in the Presence of at least two of the English who may be in the Neighborhood where the offence is committed.

And if any White Man shall kill or murder an Indian such White Man shall be tried for the Offence in the same manner as if he had murdered a White Man and if found guilty shall be executed accordingly in the presence of some of the relations of the Indians who may be murdered if they choose to be present.

Art: 4.th

Whereas Doubts and Disputes have frequently happened on account of Encroachments or supposed encroachments committed by the English Inhabitants of Georgia on the lands or hunting grounds reserved and claimed by the Creek Indians for their own use.

Wherefore to prevent any mistakes Doubts or Disputes for the future and in consideration of the great marks of Clemency and Friendship extended to us the said Creek Indians. We the King's Head Men and Warriors of the several Nations and Towns of both Upper and Lower Creeks by Virtue and in Pursuance of the full Right and Power which we now have and are possessed of Have consented and agreed that for the future the Boundary between the English Settlements and our Lands and hunting

Grounds shall be known and settled by a Line extending up Savannah River to Little River and back to the Fork of Little River to the Ends of the South Branch of Briar Creek and down that Branch to the Lower Creek Path and along the Lower Creek Path to the Main Stream of Ogeechee River and down the Main Stream of that River just below the Path leading from Mount Pleasant and from thence in a Line cross to Santa Savilla on the Matamaha River and from thence to the Southward as far as Georgia extends or may be extended to remain to be regulated agreeable to former Treaties and His Majesty's Royal Instruction a copy of which was lately sent to you.

And We the Catawba Head Men and Warriors in Confirmation of an Agreement heretofore entered into with the White People declare that we will remain satisfied with the Tract of Land of Fifteen Miles square a Survey of which by our consent and at our request has been already begun and the respective Governors and Superintendant on their Parts promise and engage that the aforesaid survey shall be compleated and that the Catawba shall not in any respect be molested by any of the King's subjects within the said Lines but shall be indulged in the usual Manner of hunting Elsewhere.

And we do by these Presents give grant and confirm unto his most sacred Majesty King George the Third all such Lands whatsoever as we the said Creek Indians have at any time heretofore been possessed of or claimed as our hunting grounds which lye between the sea and the River Savannah and the Lines herein before mentioned and described to hold the same unto the Great King George and his successors for ever. And we do fully and absolutely agree that from henceforth the above Lines and Boundary shall be the mark of Division of Lands between the English and Us the Creek Indians notwithstanding any former agreement or boundary to the contrary. And that we will not disturb the English in their Settlements or otherwise within the Lines aforesaid.

In consideration whereof it is agreed on the Part of his Majesty King George that none of His subjects shall settle upon or disturb the Indians in the Grounds or Lands to the Westward of the Lines herein before described and that if any shall presume to do so, then on complaint made to the Indians the party shall be proceeded against for the same and punished according to the Laws of the English.

In Testimony whereof we the underwritten have signed this present Treaty and put to it the Seals of our Arms the day and year above written. And the several Kings and Chiefs of the several Nations and Tribes of Indians have also sent their Hands and Seals to the same at the Time and Place aforesaid.

JA. WRIGHT Governor of Georgia (L.S.)

ARTHUR DOBBS Governor of North Carolina (L.S.)

THOS. BOONE Gov. of South Carolina (L.S.)

FRAN. FAUQUIER Lt. Gov. of Virginia (L.S.)

JOHN STUART Supert. South District (L.S.)

—— MATTAHIS —— Mark (L.S.) Col. Ayres's Mark (L.S.)

CAPT. ELLICK —— A Mark (L.S.) Illegible (L.S.)

LAMPRAFFI —— Mark (L.S.) LARVUIS X mark (L.S.)

HOOTLIPOAKATELI —— Mark (L.S.) Illegible (L.S.)

NARCUQUESEAPQUO'S —— Mark (L.S.) JIFTOIS Mark —— (L.S.)

CHIKA. MUOS mark —— (L.S.) THE WOLFES Mark —— (L.S.)

THURASFURMASTOBIJET Mark —— (L.S.) WILLANAWA —— mark (L.S.)

ATTAKALLAKULLA's mark —— (L.S.) AMOYTORY's mark —— (L.S.)

HILLAGUNSTE CHOTI's mark —— (L.S.) CHISCO TALORIES mark —— (L.S.)

THYAGURSTO CUSTENETTAS (L.S.) CLOKOWCTASS's mark —— (L.S.)

Illegible (L.S.)

By Command of their

JAMES WRIGHT.

Excellencies. ARTHUR DOBBS Esquires

THOMAS BOONE.

The Honble FRANCIS FAUQUIER &

JOHN STUART Esqre Superintendent

FENWICK BULL Secretary:

PLTF. EX. 12
TREATY OF NATION FORD

TREATY OF 1840

A treaty entered into at the Nation Ford, Catawba, between the Chiefs and Headmen of the Catawba Indians of the one part and the Commissioners appointed under a resolution of the legislature, passed December, 1839, and acting under commissions from His Excellency Patrick Noble, Esq., Governor of the State of South Carolina, of the other part:

Article First. the Chiefs and Headmen of the Catawba Indians, for themselves and the entire nation, hereby agree to cede, sell, transfer, and convey to the State of South Carolina, all their right, title, and interest to their boundary of land lying on both sides of the Catawba River, situated in the Districts of York and Lancaster, and which are represented in a plat of survey of 15 miles square, made by Samuel Wiley and dated the twenty-second day of February, one thousand seven hundred and sixty-four, and now on file in the Office of Secretary of State.

Article Second. The Commissioners on their part engage in behalf of the State to furnish the Catawba Indians with a tract of land of the value of five thousand dollars, three hundred acres of which is to be good arable lands fit for cultivation, to be purchased in Haywood County, North Carolina, or in some other mountainous or thinly populated region, where the said Indians may desire, and if no such tract can be procured to their satisfaction, they shall be entitled to receive the foregoing amount in cash from the State.

Article Third. The Commissioners further engage that the State shall pay the said Catawba Indians two thou-

sand five hundred dollars at or immediately after the time of their removal and fifteen hundred dollars each year thereafter, for the space of nine years. In Witness Whereof the contracting parties have hereunto set their hands and affixed their seals this 13th day of March, Anno Domini one thousand eight hundred and forty, and in the sixty-fourth year of American independence.

JOHN SPRINGS (L.S.), D. HUTCHISON (L.S.), E. AVERY (L.S.), B. S. MASSEY (L.S.), ALLEN MORROW (L.S.), JAMES KEGG, GEN. (L.S.), (his X mark), DAVID HARRIS, COL. (L.S.) (his X mark), JOHN JOE, MAJOR (L.S.) (his X mark), WM. GEORGE, CAPT. (L.S.) (his X mark), PHILIP KEGG, LIEUT. (L.S.) (his X mark), J. D. P. CURRENCE for SAM SCOTT, SAML. SCOTT, COL. (L.S.) (his X mark), H. T. MASSEY for ALLEN HARRIS, ALLEN HARRIS, LIEUT. (L.S.).

PLTF. EX. 50

UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF THE SOLICITOR
Washington

MEMORANDUM for the Commissioner of Indian Affairs.

You have informally communicated to me a draft for a Memorandum of Understanding between the State of South Carolina, the Catawba Tribe, the Office of Indian Affairs of the United States Department of the Interior, and the Farm Security Administration of the United States Department of Agriculture. The matter would appear to be of sufficient importance to require a formal expression of opinion on my part.

It is my understanding that this Memorandum of Understanding merely constitutes a general declaration of intention on the part of the Indians and the three agencies which are to cooperate in this program. This Memorandum is then to be implemented by such formal contracts as may be necessary to carry into full effect the understanding of the parties.

In spite of the informal nature of this Memorandum it is important to consider the authority of the Office of Indian Affairs to enter into such an agreement as the one here proposed. The agreement provides in effect for a cooperative venture of the four parties concerned in order to bring relief to the remainder of the Catawba Tribe in South Carolina.

By the treaty of 1840 between the Catawbias and the State of South Carolina, the State took charge of this tribe and has since made considerable expenditure on behalf of the tribe. The Federal Government did not take jurisdiction over these Indians until the fiscal year 1941, when the Interior Department Appropriation Act ap-

propriated \$7,500 for the relief of the Catawba Indians. This amount was included in the \$2,884,520 appropriated in that bill for the general support of Indians and administration of Indian property. (See Conference Report to accompany H.R. 8745, page 6.) While thus no special act of Congress was passed expressly granting to the Department of the Interior jurisdiction over the Catawbias, the special appropriation made for them in the 1941 Appropriation Act implies the grant of such jurisdiction for the purposes for which these funds were appropriated. This intention came out clearly in the hearings before the Senate subcommittee when first an appropriation for the Catawbias was discussed, which at that time was figured at \$15,000. During the course of those hearings on H.R. 8745 (76th Cong., 3d session, page 467), Senator Hayden stated as follows:

"* * * Then all we would have to do, as a practical matter, would be to increase the sum of \$2,846,000 by \$15,000 and indicate in the report that it was intended for the Catawba Tribe of Indians, and you would do all the rest?"

"Mr. Zimmerman: 'I think that would be correct, Senator.'"

This appropriation was in effect expended for relief among the Catawba Indians and similar funds appropriated since are currently being expended for the same purposes. If it is thus established that this Department is authorized to take jurisdiction over the Catawba Indians and has indeed done so, there would clearly be no objection to its entering into an agreement with the State of South Carolina in pursuance of the Johnson-O'Malley Act in order to assure the State's cooperation in promoting the welfare of these Indians. That act now contained in 25 U.S.C. sec. 452-455 authorizes the Secretary of the Interior to expend under such contracts "moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social wel-

fare, including relief of distress, of Indians' residing in the State with which such a contract for joint relief efforts is made. While thus it will be necessary that the formal contract to be executed later be signed by the Secretary of the Interior rather than the Commissioner of Indian Affairs, it will be sufficient for the purposes of the instant Memorandum if it is signed by the Commissioner and approved by the Secretary.

It is true that this agreement is not merely one between this Department and the State, but that there are two other parties, the Indians themselves, to be incorporated under State law, and the Farm Security Administration, a Federal agency. Nothing in the Johnson-O'Malley Act would appear to prevent the addition of such other parties to the agreement. As a matter of fact, private corporations are one of the agencies enumerated in section 452 with which contracts under the Johnson-O'Malley Act may be made by the Department. As to the inclusion of another Federal agency in this venture, the additional help provided by it serves only to strengthen the desirability of the agreement and to increase the effectiveness of the arrangements contemplated by the Johnson-O'Malley Act.

In order to permit this agreement to be entered into on the part of the State of South Carolina, the State Legislature inserted a provision in section 5 of its Deficiency Appropriation Act of 1941, which set up a committee consisting of two appointees of the Governor, two members of the Senate, and two members of the House of Representatives. This committee was authorized "to negotiate and enter into a contract with the Federal Government for the purpose of bettering the condition of the Catawba Indian Tribe in South Carolina." For that purpose the committee was authorized to obligate the State to an extent of \$75,000. The agreement is to be signed by the Governor and the members of this committee. This would appear to constitute sufficient authority for the State to enter into this agreement.

In view of the informal character of the Memorandum the signature of the members of the existing business council of the Catawba Indians would be sufficient. Formal contracts as required may, of course, be entered into after the Indians have incorporated under the laws of the State of South Carolina.

While there is in principle no legal objection to the form and substance of the Memorandum, I have made certain changes in its language especially in order to emphasize its informal character by pointing out that the various obligations enumerated in the Memorandum express merely the intention of the parties rather than a final binding agreement.

It is further noted that on page 2 under No. 2(a) of the intended obligations of the State of South Carolina, the State promises to recommend to its next convening general assembly an appropriation for the fiscal year 1942-1943 for the Catawbias of not less than \$9,500 with the proviso to the effect that "the Catawba Indian association agrees that no requests will be made for such an appropriation in the future." Such a proviso would seem to be unnecessary and unjustified in that the Catawba Indians neither can, nor should, be deprived of their right to petition the legislature of their State for appropriations needed for their subsistence. This proviso has therefore been eliminated.

It is further noted that the requirement included in the original draft submitted on October 9 to the effect that the Catawba Indians promised "to execute, in favor of the State of South Carolina, a release and quitclaim of all claims and actions, of whatsoever nature, against the State of South Carolina" (p. 5, No. 3) has been eliminated from the present draft. This elimination is most desirable in that it avoids a procedure of doubtful legality which would have consisted in using a contract under the Johnson-O'Malley Act in order to deprive the

Indian tribe of claims which it might be able to enforce in the courts.

Finally your attention is drawn to the obligations of the Farm Security Administration which on page 6 of the draft is "to assume the entire responsibility for management, operations, and supervision of the (Catawba Indian) Association." While it is clear that the Farm Security Administration can and should take complete charge of the rehabilitation program to be initiated by this agreement, it cannot take charge of the association itself, if that association is to be a bona fide corporation under the laws of the State of South Carolina. I have therefore substituted for the last word of the language just quoted, "Association," the words "program initiated by this Memorandum of Understanding."

/s/ Nathan R. Margold
Solicitor.

PLTF. EX. 52

MEMORANDUM OF UNDERSTANDING

Between

THE STATE OF SOUTH CAROLINA, THE
CATAWBA INDIAN TRIBE, AND THE OFFICE
OF INDIAN AFFAIRS OF THE UNITED STATES
DEPARTMENT OF THE INTERIOR

THIS MEMORANDUM OF UNDERSTANDING, between the State of South Carolina, acting by and through the Committee created in the Deficiency Appropriation Act of 1943, approved April 17, 1943, the Catawba Indian Tribe in South Carolina, acting by and through its business committee, and the Office of Indian Affairs of the United States Department of the Interior,

WITNESSETH:

WHEREAS, it is to the mutual benefit of the State of South Carolina and of the Catawba Indians in York County, South Carolina, that the Catawba Indians be rehabilitated upon a self-sustaining basis, and accorded equal treatment with other citizens, without discrimination; and

WHEREAS, the State of South Carolina has requested the cooperation of the Office of Indian Affairs in the rehabilitation of the Catawba Indians; and

WHEREAS, the Office of Indian Affairs, with the financial and technical aid of the State of South Carolina, is desirous of rehabilitating said Catawba Indians, and in furtherance of such purpose, to aid them in conducting non-profit activities and other social, educational and welfare activities;

NOW, THEREFORE, the parties to this Memorandum of Understanding do hereby agree to supply the following aid and assistance for the purpose of promoting the rehabilitation of the said Indians:

THE STATE OF SOUTH CAROLINA

The State of South Carolina by its signatories hereto, agrees:

- (1) To contribute for the welfare of the Catawba Indians the sum of \$75,000 for these purposes:
 - (a) To purchase therewith for use of the Catawba Indians such lands as may be agreed upon by the State of South Carolina and the Office of Indian Affairs, title to such lands to be in the State of South Carolina for the Catawba Indians and the lands to remain exempt from taxation; any necessary fees incident to the purchase of said lands shall be considered as a part of the cost of the lands.
 - (b) The remainder of the \$75,000 not needed for the purchase of lands, to be made available to the Federal Government for expenditure through the Office of Indian Affairs to carry out the purposes of this Understanding.
- (2) To convey the lands and improvements thereon and appurtenances thereunto belonging, now within the boundary lines of the present Catawba Indian Reservation, formerly set aside by the State of South Carolina, together with such lands and improvements as may be acquired pursuant to (1) (a) hereto, to the United States in trust for the Catawba Indians whenever the Secretary of the Interior shall determine that such transfer is desirable and it

appears that the United States is legally authorized to accept title to such lands in trust for the Catawba Indians.

- (3) To recommend to its next convening General Assembly the passage of appropriate legislation for the following purposes:
 - (a) Beginning with the fiscal year 1944 and for at least two years thereafter, an annual appropriation of \$9,500 to be used as directed by the Office of Indian Affairs to aid in rehabilitating the said Indians;
 - (b) To insure to the members of the Catawba Indian Tribe all the rights and privileges of any other citizen of the State of South Carolina without discrimination.
- (4) The State of South Carolina will admit members of the Catawba Indian Tribe into its public schools, including secondary schools, high schools, vocational schools, and State institutions of higher learning, on the same terms as other citizens of the State of South Carolina.

THE CATAWBA INDIANS

The Catawba Indians agree to organize on the basis of recommendations of the Office of Indian Affairs for the effective transaction of community business, to carry on the program of rehabilitation recommended by the said Office of Indian Affairs, to accept and receive financial aid from any source, and to expend such moneys in any way agreed upon from time to time by the said organization and the Office of Indian Affairs for the welfare of the Catawba Indians. The said organization will be the sole agency through which the Catawba Indians will deal with the other parties to this Memorandum of Understanding, unless and until some other agency is created pursuant to applicable law.

OFFICE OF INDIAN AFFAIRS

The Office of Indian Affairs of the United States Department of the Interior agrees, subject to the availability of funds as appropriated by the Congress of the United States:

- (1) To contribute annually for the welfare of the Catawba Indians, pursuant to the terms of the Johnson-O'Malley Act, such sums as are made available for this purpose;
- (2) To delegate members of its staff from time to time, as may be needed, to assist the Catawba Indians in the development of Indian arts and crafts and in the development of markets therefor;
- (3) To assist the other parties to this Understanding in developing the educational program for the Catawba Indians;
- (4) To make medical examinations of all members of the Catawba Indian Tribe, as soon as personnel is available and, whenever possible, to hospitalize tubercular cases, psychiatric cases and other cases of illness, in an Indian Service Sanatorium or in some other available hospital;
- (5) To make loans and grants for the economic development of the Catawba Indians, in accordance with the policies and procedures of the Office of Indian Affairs.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals this 3 day of November, 1943.

STATE OF SOUTH CAROLINA

By /s/ Illegible

By /s/ Joe H. Hall

By /s/ W.R. Bradford

By /s/ Illegible

By /s/ Illegible

By /s/ Illegible

State Committee on Catawba Indians

THE CATAWBA INDIANS

By /s/ Albert Sanders

By /s/ Raymond Harris

By /s/ Roy Brown

Business Committee

OFFICE OF INDIAN AFFAIRS

By /s/ Illegible

Approved: Dec. 14, 1943

/s/ Illegible

Secretary of the Interior

PLTF. EX. 55

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
Washington, D.C.

January 26, 1959

Mr. H. Rex Lee
Legislative Associate Commissioner
Bureau of Indian Affairs
Washington 25, D.C.

Dear Mr. Lee:

I have received a Resolution adopted by the Catawba General Council, Catawba Indian Tribe, Rock Hill, South Carolina, on January 3, 1959. A copy of this Resolution has been forwarded to your department.

I, therefore, request drafting service for the purpose of preparing for introduction legislation to accomplish the desires set forth in the Resolution. I believe it will be of great benefit to the tribe, both individually and collectively, and a benefit to the United States.

With kindest regards

Sincerely yours,

/s/ Robert W. Hemphill
ROBERT W. HEMPHILL

RWH:d

ADDENDUM TO PLAINTIFF'S (RESPONDENT'S)
REPLY BRIEF IN THE COURT OF APPEALS

April 11, 1944.

Memorandum for
Assistant Secretary Chapman:

The attached letter which Commissioner Collier recommends that you sign would authorize the Catawba Indian tribe of South Carolina to organize and adopt a constitution under the act of June 18, 1934. I concur in this recommendation.

I am somewhat disturbed by a statement in Commissioner Collier's letter of transmittal. He states that "The Federal Government has not considered these Indians as Federal wards." If by this statement the Commissioner implies that the Catawba tribe has not been recognized by the Federal Government, I must disagree. Indeed if such were the case, the tribe could not now take advantage of the act of June 18, 1934. I find, however, that the tribe has received Federal recognition. The problem can be broken down into two questions. In the first place, is there a political organization which can properly be characterized as a tribe in the commonly accepted meaning of that term? In the second place, has there been Federal recognition of tribal existence? The files are full of evidence which is conclusive that a tribal organization has been continuously maintained by these Indians over a long period of time. The Indians have done business as a tribe and the relationship between the tribal organization and its members conforms to the usual tribal pattern. There can be no doubt that the Catawba Indians now exist as a tribe and have had a known tribal existence for almost a century.

The Congress has recognized the existence of the Catawba Indian Tribe in two enactments, the act of July 29, 1848 (9 Stat. 252, 264), and the act of July 31, 1854 (10 Stat. 315, 316). These acts appropriated funds for

the removal of these Indians west of the Mississippi River, apparently for settlement among the Choctaw and Chickasaw tribes in the Indian Territory. The monies thus appropriated were never used. Had the plan been carried out, it might well have been that the Catawba Indians would have lost their identity as a tribe by becoming adopted or amalgamated with other tribes. As it turned out, however, they did not lose their identity and have retained their tribal organization ever since. It is to be observed that the act of July 29, 1848, makes specific reference to the Catawba *Tribe* of Indians. And although the act of July 31, 1854, referred only to the "Catawba Indians," it seems that at that time it was a practice of legislative draftsmen to refer to almost all tribes in such terms, a practice which is occasionally followed to this day.

I am persuaded, therefore, that the Catawba Indian Tribe exists, as such, and that it has received recognition by the Federal Government. The Catawba Indians are therefore entitled to vote on the constitution which would be submitted to them by the attached letter of transmittal.

FOWLER HARPER,
Solicitor.

DEF. EX. 3

[H.R. Con. Res. 108, 83d Cong., 1st Sess.,
67 Stat. B132 (1953)]

CONCURRENT RESOLUTIONS

AUG. 1, 1953

INDIANS

Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individual members thereof should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatamie Tribe of Kansas and Nebraska, and those members of the Chipewewa Tribe who are on the Turtle Mountain Reservation, North Dakota. It is further declared to be the sense of

Congress that, upon the release of such tribes and individual members thereof from such disabilities and limitations, all offices of the Bureau of Indian Affairs in the States of California, Florida, New York, and Texas and all other offices of the Bureau of Indian Affairs whose primary purpose was to serve any Indian tribe or individual Indian freed from Federal supervision should be abolished. It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians, and treaties between the Government of the United States and each such tribe, and report to Congress at the earliest practicable date, but not later than January 1, 1954, his recommendations for such legislation as in his judgment, may be necessary to accomplish the purposes of this resolution.

Passed August 1, 1953.

DEF. EX. 4

Union Calendar No. 790

HOUSE OF REPRESENTATIVES

82D CONGRESS
2d Session

REPORT
No. 2503

REPORT WITH RESPECT TO THE HOUSE RESOLUTION AUTHORIZING THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO CONDUCT AN INVESTIGATION OF THE BUREAU OF INDIAN AFFAIRS

DECEMBER 15, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed with illustrations

Mr. MURDOCK, from the Committee on Interior and Insular Affairs, submitted the following

R E P O R T

[Pursuant to H. Res. 698, 82d Cong.]

1. TEXT OF THE RESOLUTION

House Resolution 698 which passed the House on July 1, 1952, provides as follows:

RESOLUTION

Resolved, That the Committee on Interior and Insular Affairs, acting as a whole or by subcommittee, is authorized and directed to conduct a full and complete investigation and study of the activities and operations of the

Bureau of Indian Affairs, with particular reference to (1) the manner in which the Bureau of Indian Affairs has performed its functions of studying the various tribes, bands, and groups of Indians to determine their qualifications for management of their own affairs without further supervision of the Federal Government; (2) the manner in which the Bureau of Indian Affairs has fulfilled its obligations of trust as the agency of the Federal Government charged with the guardianship of Indian property; (3) the adequacy of law and regulations to assure the faithful performance of trust in the exchange, lease, or sale of surface or subsurface interests in or title to real property or disposition of personal property of Indian wards.

The committee shall report to the House (or to the Clerk of the House if the House is not in session) as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable, including (1) a list of the tribes, bands, or groups of Indians found to be qualified for full management of their own affairs; (2) legislative proposals designed to promote the earliest practicable termination of all Federal supervision and control over Indians; (3) a listing of functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of the Federal Government or to the States; (4) names of States where further operation of the Bureau of Indian Affairs should be discontinued; (5) recommended legislation for removal of legal disability of Indians by reason of guardianship by the Federal Government; (6) findings concerning transactions involving the exchange, lease, or sale of lands or interests in lands belonging to Indian wards, with specific findings as to such transactions in the State of Oregon; (7) recommendations to the Attorney General for action by the Department of Justice if the committee finds any violation of trust in the disposition of property of Indian wards, (8) recommended legislation designed

to achieve faithful performance by the Bureau of Indian Affairs of the obligations of guardianship for the benefit of Indian wards.

For the purpose of carrying out this resolution, the committee or subcommittee is authorized to sit and act during the present Congress at such times and places within the United States, its Territories, and possessions, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. Subpoenas may be issued under the signature of the chairman of the committee or any other member of the committee designated by him, and may be served by any person designated by such chairman or member.

2. LETTER OF THE SUBCOMMITTEE CHAIRMAN TO THE COMMISSIONER

The House failed to provide specific funds for the requested investigation.

Soon after the passage of the resolution the chairman of the Committee on Interior and Insular Affairs appointed a special subcommittee to make the requested study and investigation and report thereon.

The members so appointed are as follows: Toby Morris, chairman; Reva Beck Bosone, Wayne N. Aspinall, Wesley A. D'Ewart, and Frank T. Bow.

Since the resolution primarily called for a study and investigation of the activities of the Bureau of Indian Affairs, it was deemed advisable by the special subcommittee to initiate the investigation by requesting the Bureau to submit to the committee in detail information regarding the matters contained in the resolution. A letter was therefore written by the chairman to the Commis-

sioner, Bureau of Indian Affairs, asking for a complete report with respect to the following propositions:

(1) The manner in which the Bureau of Indian Affairs has performed its functions of studying the various tribes, bands, and groups of Indians to determine their qualifications for management of their own affairs without further supervision of the Federal Government;

(2) The manner in which the Bureau of Indian Affairs has fulfilled its obligations of trust as the agency of the Federal Government charged with the guardianship of Indian property;

(3) The adequacy of law and regulations as assure the faithful performance of trust in the exchange, lease, or sale of surface or subsurface interests in or title to real property or disposition of personal property of Indian wards;

(4) Name of tribes, bands, or groups of Indians now qualified for full management of their own affairs;

(5) The legislative proposals designed to promote the earliest practicable termination of all Federal supervision and control over Indians;

(6) The functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of the Federal Government or to the States;

(7) Names of States where further operation of the Bureau of Indian Affairs should be discontinued;

(8) Recommended legislation for removal of legal disability of Indians by reason of guardianship by the Federal Government; and

(9) Findings concerning transactions involving the exchange, lease, or sale of lands or interests in

lands belonging to Indian wards, with specific findings as to such transactions in the State of Oregon.

3. TEXT OF QUESTIONNAIRE SENT TO ALL BUREAU OFFICIALS

The request of the committee resulted in the Bureau's sending out to all of its Bureau officials a letter accompanied by a detailed questionnaire, which documents are as follow:

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington D. C., August 6, 1952.

MEMORANDUM

To: All Bureau officials.

From: Commissioner, Bureau of Indian Affairs.

Subject: Withdrawal programing.

During the past fiscal year the Bureau has devoted a great deal of effort to the development of withdrawal concepts and policy. Bureau personnel have been encouraged to give increasing emphasis to withdrawal objectives in their work with Indian groups and individuals in program development and effectuation. At the central office, we have established the Division of Program, whose primary responsibilities are to render guidance and assistance to Bureau personnel engaged in withdrawal programing at area and agency levels and to formulate Bureau withdrawal programs in cooperation with other central-office staff at national levels. We have reached the stage where it has become desirable to crystallize certain Bureau withdrawal policies, establish methods basic to the development of withdrawal programing, and fix responsibilities for proceeding with the task.

At this point, I want to emphasize that withdrawal program formulation and effectuation is to be a coopera-

tive effort of Indian leaders and community groups affected, side by side, with Bureau personnel. We must lend every encouragement to Indian initiative and leadership. I realize that it will not be possible always to obtain Indian cooperation. However, I want our efforts to obtain such cooperation to be unceasing. In addition to the importance of consultation with Indians, I wish also to stress Indian participation with respect to negotiations with States, political subdivisions of States, and Federal agencies, where such negotiations relate to Bureau withdrawal.

I think it may be fairly said that current congressional actions with regard to the Bureau of Indian Affairs and Indian appropriations indicate future appropriations will be limited largely to financing items which will facilitate withdrawal. This approach is already evident in both House and Senate with respect to appropriation of construction funds. Under this condition it is imperative that the Bureau develop and implement programs to assist Indians to become better qualified to manage their own affairs. Full understanding by the tribal membership should be attained in any event, and agreement with the affected Indian groups must be attained if possible. In the absence of such agreement, however, I want our differences to be clearly defined and understood by both the Indians and ourselves. We must proceed, even though Indian cooperation may be lacking in certain cases.

I look to area and agency personnel, as the representatives of the Bureau of Indian Affairs, to assume primary responsibility for instituting and carrying on cooperative withdrawal programing work at field levels. It is in the field that we have the basic sources of necessary information and the means of enlisting Indian support and participation. In your work with Indian groups I want you to use every opportunity to place before the Indian tribal membership the need for and advantages to be derived from cooperative withdrawal programing effort. Tribal leaders should be encouraged to obtain maximum membership participation in this work.

FIRST GENERAL WITHDRAWAL PROGRAMING ASSIGNMENT

As the first major step in carrying out the Bureau's share of the above-mentioned responsibilities for formulation and effectuation of withdrawal programs, I am requesting the preparation of certain documents. These documents encompass a compilation of basic facts bearing on withdrawal programing for each tribe, band, identifiable group, or geographical area; a report on withdrawal-program accomplishment, present status, and future plans; a delineation of tasks yet to be completed in order to effect complete withdrawal; and a listing of tribes, bands, etc., found to be qualified for management of their own affairs. These documents will serve a number of very important purposes, including the following: provide a working tool in withdrawal programing; provide a source of information to all interested parties, particularly congressional committees, with respect to Indian and Bureau affairs; provide a ready reference on withdrawal accomplishment to date; and serve as a basis for development of a system of periodic reporting of future withdrawal-program status and accomplishment.

Area directors and superintendents have primary Bureau responsibility for preparation of these documents. The central-office staff function is primarily one of furnishing guidance and consultative services to the field. Area directors will be advised in the near future by the Division of Program as to plans for early field visits by Division representatives.

Final field drafts of documents must be completed in the field and transmitted to the central office not later than September 15, 1952.

The documents to be prepared and procedures to be followed are as follows:

1. Area and agency staffs will assemble all available factual data pertinent to an appraisal of withdrawal potential of each tribe, band, identifiable group, or appropriate geographical area.

Suggested references

(a) Compilation of Material Relating to the Indians of the United States and the Territory of Alaska, Including Certain Laws and Treaties Affecting Such Indians (Subcommittee on Public Lands, House of Representatives. H. R. 66, 81st Cong., 2d sess., serial No. 30, June 13, 1950).

(b) Statistical Charts Regarding the Indians of the United States (undated, Subcommittee on Indian Affairs of House Committee on Interior and Insular Affairs).

(c) Material recently submitted by area offices to House Committee on Interior and Insular Affairs for revision of (b), above.

(d) Any area and agency reports containing data pertinent to withdrawal.

(e) Such other records as may be necessary to provide the data required.

2. Area and agency offices will prepare the following documents for each tribe, band, identifiable group, or appropriate geographical area, calling on the Division of Program staff for guidance and consultation which will be provided to the extent that staff may be available.

A. Document: Summary of facts pertinent to withdrawal, using the attached checklist and guide (including Item 1 through Item 28).

B. Document: A summary of accomplishment in withdrawal by termination or transfer of Bureau services to other auspices, in terms of actual withdrawal; also, a description of uncompleted withdrawal negotiations instituted with Indians, States, political subdivisions of States,

political subdivisions of States, etc., and a definition of the current status of such negotiations. (See Document B form, attached.)

C. Document: A listing and description of tasks remaining to be done to effect complete withdrawal of Bureau services by termination or transfer to other auspices, delineating obstacles preventing or impeding withdrawal, recommending procedures to overcome the obstacles and effect complete withdrawal, and designating those procedures to be given top priority in staff attention. (See Document C form, attached.)

D. Document: List those tribes, bands, identifiable groups, and appropriate geographical areas which, in the opinion of the field, are ready for complete withdrawal of Bureau responsibility for services and termination of trusteeship responsibilities, assuming that these responsibilities and services will be transferred to the Indians themselves, local or State governments or other auspices, indicating those tribes, bands, etc., assigned top priority for further staff attention.

3. Upon submittal of these documents to the central office, the Division of Program will consolidate them for all tribes, bands, groups, and geographical areas.

Urgency in completion of this assignment is indicated by the date of September 15, 1952, fixed for submission of final field drafts of documents.

D S Myer, Commissioner

GENERAL INSTRUCTIONS FOR PREPARATION OF DOCUMENTS A, B, C, AND D

GENERAL INSTRUCTIONS

1. Data shall be submitted separately for each tribe, band, identifiable group, or geographical area. In determining which of the four units is to be used in presentation of data called for in Documents A, B, C, and D,

the field will make a determination as to which unit is the most suitable for withdrawal programing purposes. In cases where withdrawal programing as to certain functions will be on the basis of a smaller unit and withdrawal programing as to certain other functions will be on the basis of a larger unit, use the smaller unit. A reservation will quite often be the most appropriate unit even though two or more tribes or bands may be located on such reservation.

Examples

Example 1: California will be reported as a unit because withdrawal programing is being carried on for the State as a whole.

Example 2: Assume for reservation X:

(a) Residents:

1. Two tribes are located on the reservation.
2. Segments of two other tribes are located on the reservation.

(b) How withdrawal programing will be conducted:

1. Bureau withdrawal as to most functions will be negotiated with residents of the reservation as a unit.
2. Bureau withdrawal as to education and welfare is being developed to be made applicable throughout the State in which reservation X and certain other reservations are located.

Selection of reporting unit

(a) The State as a unit is rejected because as to certain functions the Bureau will deal only with Indians at reservation X.

(b) Reservation X is selected as a reporting unit because withdrawal of certain functions will be worked out

with the tribes and segments of tribes at the reservation as a unit and no single tribe or segment of a tribe will be an important element in development of the withdrawal program. Hence, reservation X is the smallest unit important from the standpoint of withdrawal programing.

2. In narrative sections of documents, be brief, but don't leave out facts important to an understanding of the subject under discussion. Assume that persons using the report will have no prior specific information about the particular tribe, band, etc., under discussion, although such person will have an understanding of the general relationships between the Federal Government and Indians.

SPECIFIC INSTRUCTIONS

1. Submit original and one copy of all documents to central office.
2. Prepare all documents on white paper, 8- by 10½-inch size.
3. Number pages of each document consecutively, starting the page numbering of each document with page 1.
4. Forms have been prepared by the Central Office for tables to be completed as a part of document A; in addition, forms for documents B and C have been prepared. Forms are to be duplicated in the field with exactly the same headings and columnar arrangements specified by the central office.
5. The field will design its own form for document D.
6. Specific instructions have been prepared for document A. These instructions appear on the first sheet of the check list and guide. Specific instructions have been prepared for documents B and C together. They are enclosed as separate sheets. No specific instructions have been prepared for document D.

INSTRUCTIONS FOR PREPARATION OF DOCUMENTS B AND C

GENERAL INSTRUCTION

Reports will cover generally only those functions performed by the Bureau. Functions performed for Indians by themselves or others will not be reported unless the performance is so unsatisfactory as to be an important obstacle to complete withdrawal.

7. SUMMARY STATEMENT OF SUBCOMMITTEE PROCEEDINGS

Upon receipt of the foregoing information from the Bureau of Indians Affairs, the committee met in executive session to consider the submitted material and determine further activities in order to fully appraise the House regarding the provisions of House Resolution 698. It was unanimously agreed at such meeting that due to the few remaining days of the Eighty-second Congress, with the resultant lack of time to fully pursue the investigation, that such special committee make a report regarding its activities and recommend further study and investigation by the next Congress. Only by this procedure can the study and investigation of the Bureau of Indian Affairs be satisfactorily completed. To try and complete the study within the remaining few days of the Eighty-second Congress would not permit a fair analysis of all the matters presented. The problem of withdrawing Federal supervision and control over the Indians, as such, is one that has been before the eyes of Congress for over 100 years. The problem is a tremendous one involving a great and worthy people. It deserves real and much concern and consideration.

It is therefore the opinion and recommendation of the committee that the Eighty-third Congress continue this study and investigation toward the goal of fully and properly advising the House with respect to the whole Indian problem, including recommended legislation.

The committee in its deliberation of this matter gave consideration to the material submitted by the Bureau, and in so doing, found certain information with which it could not agree. The committee therefore desires to point out that the information submitted by the Bureau contained in this report is not to be interpreted as any endorsement by the committee of such information or its outlined policies. The committee only includes the information submitted by the Bureau as a part of this report for the specific purpose of furnishing to the next Congress the official position of the Bureau regarding the inquiries as made by the House of Representatives in House Resolution 698. The committee believes that the information submitted herewith will serve the next Congress in the further study of legislative matters relating to Indians.

It is the belief of the committee that all legislation dealing with Indian affairs should be directed to the ending of a segregated race set aside from other citizens. It is the recommended policy of this committee that the Indians be assimilated into the Nation's social and economic life. The objectives, in bringing about the ending of the Indian segregation to which this committee has worked and recommends are: (1) the end of wardship or trust status as not acceptable to our American way of life, and (2) the assumption by individual Indians of all the duties, obligations, and privileges of free citizens. The committee realizes that these objectives cannot be accomplished "overnight," but recommends a constant effort in that direction, with careful and earnest consideration always given to the rights of the Indians.

In the appendix to this report the committee is making available certain information and proposed legislation, to which the committee has given detailed consideration. It is believed that the material included in the appendix will be helpful to the next Congress should it see fit to continue the investigation. The compilation of material included in the appendix is the result of great effort by

the committee and the Library of Congress in getting together in one volume certain basic facts and statistics relating to the Indians of the United States and Alaska. This information has proved helpful to the committee and the demand for same has been so great that the committee print of the compilation has become exhausted.

The legislative proposals included in the appendix are the result of many hearings and field inspections by the committee.

The proposed legislation regarding the Alaska native claims matter resulted from hearings by a special Indian Affairs Subcommittee in Alaska and numerous conferences between the committee, its staff, the Bureau of Indian Affairs, and the Department of Justice. It is urged that consideration be given to this legislation by the next Congress. The proposed legislation in the appendix relating to the Agua Caliente Indians of California is the result of hearings by the Indian Affairs Subcommittee at Palm Springs, Calif. It is likewise recommended that consideration be given such legislation. These matters have been given much but, of course, not complete consideration by the committee.

TOBY MORRIS, *Chairman*.
REVA BECK BOSONE.
WESLEY A. D'EWART.
FRANK T. BOW.
WAYNE N. ASPINALL.

DEF. EX. 5

Union Calendar No. 925

83d Congress, 2d Session - - - - House Report No. 2680

REPORT

WITH RESPECT TO

THE HOUSE RESOLUTION
AUTHORIZING THE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
TO CONDUCT AN INVESTIGATION OF
THE BUREAU OF INDIAN AFFAIRS

PURSUANT TO HOUSE RESOLUTION 89
(83D CONGRESS)

[SEAL]

SEPTEMBER 20, 1954.—Committed to the Committee on the Whole House on the State of the Union and ordered to be printed, with an illustration

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TEXT OF THE RESOLUTION

House Resolution 89, which passed the House on March 25, 1953, provides as follows:

RESOLUTION

Resolved, That the Committee on Interior and Insular Affairs, acting as a whole or by subcommittee, is authorized and directed to conduct a full and complete investigation and study of the activities and operations of the Bureau of Indian Affairs with reference to (1) the manner in which the Bureau of Indian Affairs has performed its functions of studying the various tribes, bands, and groups of Indians to determine their qualifications for management of their own affairs without further supervision of the Federal Government; (2) the manner in which the Bureau of Indian Affairs has fulfilled its obligations of trust as the agency of the Federal Government charged with the guardianship of Indian property; (3) the adequacy of law and regulations to assure the faithful performance of trust in the exchange, lease, or sale of surface or subsurface interests in or title to real property or disposition of personal property of Indian wards.

The committee shall report to the House (or to the Clerk of the House if the House is not in session) as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable, including (1) a list of the tribes, bands, or groups of Indians found to be qualified for full management of their own affairs; (2) legislative proposals designed to promote the earliest practicable termination of all Federal supervision and control over Indians; (3) a listing of functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of the Federal Government or to the States; (4) names of States where further operation of the Bureau of Indian Affairs should be discontinued; (5) recommended legislation for removal

of legal disability of Indians by reason of guardianship by the Federal Government; (6) findings concerning transactions involving the exchange, lease, or sale of lands or interests in lands belonging to Indian wards.

For the purpose of carrying out this resolution, the committee or subcommittee is authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witness and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any other member of the committee designated by him, and may be served by any person designated by such chairman or member.

PREVIOUS COMMITTEE POLICY STATED IN 82D CONGRESS

In its reports (H. Rept. No. 2503) to the House in the 82d Congress the Interior and Insular Affairs Committee made the following statement:

It is the belief of the committee that all legislation dealing with Indian affairs should be directed to the ending of a segregated race set aside from other citizens. It is the recommended policy of this committee that the Indians be assimilated into the Nation's social and economic life. The objectives, in bringing about the ending of the Indian segregation to which this committee has worked and recommends are (1) the end of wardship or trust status as not acceptable to our American way of life, and (2) the assumption by individual Indians of all the duties, obligations, and privileges of free citizens. The committee realizes that these objectives cannot be accomplished overnight, but recommends a constant effort in that direction, with careful and earnest consideration always given to the rights of the Indians.

PRESENT COMMITTEE OUTLINE OF POLICY

House Report No. 841 (83d Cong., 1st sess.) on House Concurrent Resolution 108 stated that current Indian bills had—

two coordinated aims: First, withdrawal of Federal responsibility for Indian affairs wherever practicable; and, second, termination of the subjection of Indians to Federal laws applicable to Indians as such.

The Report 841 then outlined five principles of legislation as follows:

1. Enactment of legislation having as its purpose repeal of existing statutory provisions which set Indians apart from other citizens, thereby abolishing certain restrictions deemed discriminatory * * *.

Under this program Public Laws 277, 280, and 281 were enacted in the first session of the 83d Congress which repealed discriminations in the Federal statutes regarding use or possession by, or sale and disposition of, intoxicants to Indians; conferred State civil and criminal jurisdiction over certain Indians making possible a similar extension to the remainder; and repealed Federal Statutes on Indians having to do with personal property and sale of firearms.

2. Enactment of legislation terminating certain services provided by the Indian Bureau for Indians by transferring responsibility for such services to other governmental or private agencies. * * *

For the securement of ends envisaged in this program, a bill (H.R. 303) was introduced to transfer the administration of Indian health and hospital facilities to the Federal Department of Health, Education, and Welfare. More remains to be accomplished in this program.

3. Enactment of legislation providing for withdrawal of individual Indians from Federal responsibility, at the

same time removing such individuals from restrictions and disabilities applicable to Indians only.

For the purpose of accomplishing this end, H.R. 4985 was introduced to provide a procedure for the issuance of a certificate or degree of competency to any competent adult Indian making application.

4. Enactment of legislation terminating Federal responsibility for administering the affairs of Indian tribes within individual States as rapidly as local circumstances will permit. * * *

House Concurrent Resolution 108 named the States of California, Florida, New York, and Texas as those within which Indian tribes and individuals should be freed from Federal supervision and control. In the second session of the 83d Congress, H.R. 8322 provided for termination of Indian Bureau supervision in California, H.R. 7321 for termination in Florida, H.R. 7679 and H.R. 7680 for termination in New York and H.R. 6282 for termination in Texas.

5. Enactment of legislation terminating Federal responsibility for administering the affairs of individual Indian tribes as rapidly as circumstances will permit. * * *

House Concurrent Resolution 108 named the Flathead of Montana, Klamath of Oregon, Menominee of Wisconsin, Potawatomi of Kansas and Nebraska, and the Turtle Mountain Band of Chippewa in North Dakota as tribes to be freed from Federal supervision and control at the earliest possible moment.

TEXT OF HOUSE CONCURRENT RESOLUTION 108

[H. Con. Res. 108]

CONCURRENT RESOLUTION

Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of

the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following-named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from the disabilities and limitations specially applicable to Indians: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatomi Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are one the Turtle Mountain Reservation, North Dakota. It is further declared to be the sense of Congress that, upon the release of such tribes and individual members thereof from such disabilities and limitations, all offices of the Bureau of Indian Affairs in the State of California, Florida, New York, and Texas, and all other offices of the Bureau of Indian Affairs whose primary purpose was to serve any Indian tribe or individual Indian freed from Federal supervision should be abolished. It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians and treaties between the Government of the United States and each such tribe, and report to Congress at the earliest practicable date, but not later than January 1, 1954, his recommendations for such legislation as, in his judgment, may be necessary to accomplish the purposes of this resolution.

HEARINGS UNDER HOUSE CONCURRENT RESOLUTION 108

H.R. 7319 provides for termination at Flathead, H.R. 7320 for termination at Klamath, H.R. 7135 for termination at Menominee, H.R. 7318 for termination of Sac and Fox et al (including Potawatomi of Kansas), and H.R. 7316 for termination at Turtle Mountain. In addition, a bill to terminate Federal supervision over certain groups in Utah, H.R. 7674, has been introduced. Hearings have been held jointly with the Senate committee on all of the above-mentioned bills.

The hearings on termination bills held with the Senate committee were as follows:

(1) February 15, 1954; Tribes of Utah (Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute, Skull Valley Shoshone, and Washakle Shoshone); H.R. 7654 and S. 2670.

(2) February 16, 1954; Alabama and Coushatta Tribes of Texas; H.R. 6282 and H.R. 6547 and S. 2744.

(3) February 17, 1954; Tribes of Western Oregon (Grande Ronde, Siletz); H.R. 7317 and S. 2746.

(4) February 18-19, 1954; Kansas and Nebraska, tribes (Sac and Fox, Iowa, Potawatomi, Kickapoo); H.R. 7318, S. 2743.

(5) February 23-24, 1954; Klamath of Oregon; H.R. 7320 and S. 2745.

(6) February 24, 1954; Makah of Washington; H.R. 7981.

(7) February 25-26, 1954; Flathead of Montana (Salish and Kootenai); H.R. 7319 and S. 2750.

(8) March 1-2, 1954; Seminole of Florida; H.R. 7321 and S. 2717.

(A field visit was made to Florida Everglades and Seminole homes by Congressmen E. Y. Berry and James A. Haley of the committee, March 11-14, 1954.)

(9) March 2-3, 1954; Turtle Mountain Chippewa of North Dakota; H.R. 7316 and S. 2748.

(10) March 4, 5, 6, 1954; Indians of California; H.R. 7322 and S. 2749.

(11) March 10, 11, 12, 1954; Menominee of Wisconsin; H.R. 7135 and S. 2813.

(12) Field hearings at Reno, Nev., April 16-17, 1954; Nevada Indians (Ruby Valley Shoshone, Yerington Paiute, Battle Mountain, Carson, Las Vegas, Lovelock, Reno-Sparks, and Yerington Colonies); H.R. 7552.

(13) Field hearings at Klamath Falls, Oreg., April 19, 1954; Klamath Indians; H.R. 7320 and S. 2745.

INVESTIGATIONS UNDER HOUSE RESOLUTION 89

The efforts of the committee to fulfill its charge under House Resolution 89 took the form of (a) several questionnaires submitted to the various officials of the Indian Bureau by mail, and (b) field hearings at eight points during July, September, and October of 1953.

The results of the questionnaires are summarized in the appendixes to this report. The hearings under House Resolution 89 were as follows:

(1) Sheridan, Wyoming; July 18 and 19, 1953, Hon. William Henry Harrison of Wyoming, presiding and representatives of 24 tribes being present. This hearing is reported in Committee Print No. 11, 83d Congress, 1st session.

(2) Eugene, Oreg.; September 24, 1953, Hon. A. L. Miller, chairman of the full committee presiding and representatives of the Portland area office of the Indian Bureau, and the following tribal groups represented being present: Klamath, Umatilla, and Warm Springs. Others members of the committee present were Hon. Wesley A. D'Ewart, Hon. Clair Engle, and Hon. George A. Shuford.

(3) Everett, Wash.; September 25, 1953, Hon. A. L. Miller, chairman of the full committee presiding and representatives of the Western Washington Agency of the Indian Bureau, and the following tribal groups represented: Tulalip, Makah, Quinault, Lummi, Swinomish, Yakima, Quillayute, and Nooksack. Other members of the committee present were Hon. Wesley A. D'Ewart, Hon. Jack Westland, Hon. Clair Engle, Hon. George A. Shuford, and Hon. William A. Dawson.

(4) Rosebud Indian Agency, S. Dak.; October 10, 1953, Hon. William H. Harrison presiding and representatives of the Rosebud Sioux Indians present. Other members of the committee present were Hon. Wayne N. Aspinall and Hon. E. Y. Berry.

(5) Pine Ridge Indian Agency, S. Dak.; October 11, 1953, Hon. William H. Harrison presiding and representatives of the Oglala Sioux Tribe present. Other members of the committee present were Hon. Wayne N. Aspinall and Hon. E. Y. Berry.

(6) Browning, Mont.; October 14, 1953, Hon. William H. Harrison presiding and representatives of the Blackfeet Tribe present. Other members of the committee present were Hon. Wesley A. D'Ewart, Hon. Wayne N. Aspinall and Hon. E. Y. Berry.

(7) Dixon, Mont.; October 16, 1953, Hon. William H. Harrison presiding and representatives of the Flathead Tribe present. Other members of the committee were Hon. Wesley A. D'Ewart, Hon. Wayne N. Aspinall and Hon. E. Y. Berry.

(8) Nespelem, Wash.; October 17, 1953, Hon. William H. Harrison presiding and representatives of the Colville Indians present. Other members of the committee present were Hon. Wesley A. D'Ewart, Hon. Wayne N. Aspinall, and Hon. E. Y. Berry.

DEF. EX. 6

Union Calendar No. 925

HOUSE OF REPRESENTATIVES

83D CONGRESS
2d SessionREPORT
No. 2680

REPORT WITH RESPECT TO THE HOUSE RESOLUTION AUTHORIZING THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO CONDUCT AN INVESTIGATION OF THE BUREAU OF INDIAN AFFAIRS

SEPTEMBER 20, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed, with an illustration

Mr. MILLER of Nebraska, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[Pursuant to H. Res. 89, 83d Cong.]

To assist in complying with the instructions of House Resolution 89, Chairman Miller appointed a Special Subcommittee on Indian Affairs to conduct the proposed study. Representative William Henry Harrison was named chairman and the members were Representatives E. Y. Berry, Jack Westland, Wayne N. Aspinall, and George A. Shuford.

Following is the report to the Committee on Interior and Insular Affairs submitted by the Special Subcommittee on Indian Affairs:

STATEMENT OF DIFFICULTIES

The subcommittee would like to preface its findings under House Resolution 89 with a brief statement regarding the principal difficulties encountered during its investigations. These difficulties can be used, if properly understood, as means of approach toward solving the general question of Indian wardship and dependency.

(1) There exists at present, no adequate channel for the expression of overall Indian public opinion, either in local communities, or in the Nation as a whole. Indians do not publish daily newspapers, do not have adequate polling systems on public issues, and do not express themselves in public as members of an Indian bloc or segment of the general public. Hence, it is impossible for the subcommittee, under the present system, to poll Indian opinion on issues involving themselves.

(2) Indian Affairs suffer from an increasing complexity of technical and geographical detail which is manifested in the mounting accumulation of special legislation relating to specific Indian groups and an infinite amount of detail in each piece of legislation which well-nigh overpowers human capacity to comprehend. The background material needed even in the consideration of particular Indian bills is frequently so vast and involved that neither members nor their staffs have the time or resources to digest it.

(3) Under the authority of the Indian Reorganization Act of 1934 (48 Stat. 984-988 C 576) the Secretary of the Interior has been able to delegate certain powers, originally delegated to him by Congress, to the tribal governments themselves with resulting confusion of authorities and jurisdictions which sometimes passes belief. For example, the tribal constitutions contains membership clauses in which the tribe is empowered to determine membership in accordance with tribal membership rolls, which rolls are apparently no one's responsibility to main-

tain, judging from actual performance at many Indian agencies. Inasmuch as it is possible for certain elements to manipulate these tribal rolls to suit themselves it is possible to include many persons of little or no Indian blood among the recipients of Indian Bureau services as members of tribes holding lands in trust status.

(4) Apparently no law yet enacted in the field of Indian affairs has had the effect of stimulating Indians, as a group, to make an active effort to end Federal wardship. As a matter of record, it is frequently found that the most active and advanced Indian tribes are the most reluctant to sever the ties which bind them to their Federal guardian. It might be supposed that the Indian Reorganization Act of 1934 would have served to school Indians in the ways of self-government in local community life which would have prepared them to participate in the civic life of their States as do non-Indians. Such, however, was not the case, and committee investigations show that the Indian Reorganization Act served to tighten the bonds more closely which held the reservation ward to his guardian. The record suggests that only through an energetic program to eliminate statutory provisions setting Indian citizens apart from non-Indian citizens in matters relating to personal status can there be hope of attaining for the Indian the benefits and responsibilities enjoyed by non-Indians.

Findings and recommendations by the committee regarding the points raised in House Resolution 89 are as follows:

(1) *A list of the tribes, bands, or groups of Indians found to be qualified for full management of their own affairs, and*

(4) *Names of States where further operation of the Bureau of Indian Affairs should be discontinued*

In order to present a full list of tribes, bands, and groups which were officially determined by the Indian

Bureau to be immediately eligible or ineligible to manage their own affairs, the following table was prepared on the basis of evidence from field agencies submitted by the Indian Bureau in 1953 (i.e., from the Dillon Myer field questionnaire of August 1952). The word "yes" refers to those groups qualified to handle their own affairs immediately and the word "no" to those not so qualified, in the opinion of local officials of the Indian Bureau. (See pp. 25-26, and 29-97, this report.)

Blackfeet: Yes (except for a minority).	Consolidated Ute Agency:
California (115 groups listed on pp. 1140-1141 of H. Rept. 2503, 82d Cong., 2d sess.): Yes.	Southern Ute: No.
Cherokee and Catawba:	Ute Mountain: No.
Cherokee of North Carolina: No.	Crow: No.
Catawba of South Carolina: Yes.	Crow Creek and Lower Brule:
Cheyenne River: No.	Crow Creek: No.
Choctaw of Mississippi: No.	Lower Brule: No.
Colorado River Agency:	Five Civilized Tribes: No.
Hualapai: No.	Quapaw area:
Yavapai: Yes (conditionally).	Eastern Shawnee: Yes (conditionally).
Havasupai: No.	Ottawa: Yes.
Camp Verde: No.	Quapaw: Yes (except for minority).
Fort Mohave: No.	Seneca-Cayuga: Yes (conditionally).
Cocopah: Yes.	Wyandotte: Yes (conditionally).
Colorado River: No.	Flathead: Yes.
Colville and Spokane:	Fort Apache: No.
Colville: Yes (conditionally).	Fort Belknap and Rocky Boy's:
Spokane: Yes.	Fort Belknap: Yes.
Consolidated Chippewa:	Rocky Boy's: No.
Fond du Lac: Yes.	Fort Berthold: Yes.
Grand Portage: Yes (conditionally).	Fort Hall: Yes (if gradual).
Leech Lake: Yes (conditionally).	Fort Peck: Yes (except for minority).
White Earth: Yes (conditionally).	Great Lakes Consolidated:
Nett Lake: Yes (conditionally).	Bad River: No.
Mille Lac: Yes.	Bay Mills: Yes.
	Forest County Potawatomi: No.
	Hannanville: Yes.
	Keweenaw Bay: Yes.
	Lac Courte Oreilles: No.
	Lac du Flambeau: Yes (conditionally).

Oneida: Yes.	Northern Cheyenne: No.
Red Cliff: Yes.	Northern Idaho Agency:
Sac and Fox of the Mississippi in Iowa: No.	Kalispel: No.
Saginaw Chippewa or Isabella: Yes.	Kootenai: No.
St. Croix: Yes.	Nez Perce: Yes.
Sokaogon or Mole Lake: Yes (conditionally).	Coeur d'Alene: Yes.
Stockbridge-Munsee: Yes.	Osage: (?)
Winnebago of Wisconsin: Yes (conditionally).	Papago: No.
Hopi: No.	Pima Agency:
Jicarilla: No.	Fort McDowell: No.
Klamath: (?)	Salt River: Yes (conditionally).
Menominee: Yes.	Gila River: No.
Mescalero Apache: No.	Maricopa or Ak Chin: No.
Navaho: No.	Pine Ridge: No.
Nevada: ¹	Pipestone: (?)
Battle Mountain Colony: Yes.	Red Lake: No.
Carson County: Yes.	Rosebud and Yankton:
Duck Valley: Yes.	Rosebud: No.
Duckwater: Yes.	Yankton: Yes (conditionally).
Elko: Yes.	San Carlos: No.
Ely: Yes.	Seminole of Florida: No.
Fallon Colony: No.	Sisseton-Wahpeton Sioux: Yes.
Fallon: Yes.	Southern Plains:
Fort McDermitt: Yes.	Absentee Shawnee: No.
Goshute: No.	Alabama-Coushatta of Texas: Yes (except for minority).
Las Vegas: Yes.	Caddo: Yes.
Lovelock Colony: No.	Cheyenne-Arapaho: No.
Moapa: Yes.	Citizen Potawatomi: Yes.
Pyramid Lake: Yes.	Fort Sill Apache: Yes.
Reno-Sparks: Yes.	Iowa of Kansas and Nebraska: Yes.
Ruby Valley: Yes.	Iowa of Oklahoma: Yes.
Skull Valley: Yes.	Kaw: Yes.
South Fork: Yes.	Kickapoo of Kansas: Yes.
Summit Lake: Yes.	Kickapoo of Oklahoma: No.
Walker River: Yes.	Kiowa-Comanche-Apache: No.
Washoe: No.	Otoc-Missouria: No.
Winnemucca Colony: Yes.	Pawnee: Yes (except for minority).
Yerington Colony: No.	Ponca of Oklahoma: No.
Yerington (Campbell Ranch): Yes.	
Yomba: Yes.	

¹ Based on numerical counts of families, competent, marginal, and incompetent.

Prairie Potawatomi of Kansas: No.	Santa Clara: No.
Sac and Fox of Kansas and Nebraska: Yes.	Santo Domingo: No.
Sac and Fox of Oklahoma: Yes (except for minority).	Taos: No.
Tonkawa: Yes.	Tesuque: No.
Wichita: Yes (except for minority).	Zia: No.
Standing Rock: No.	Zuni: No.
Turtle Mountain and Fort Totten:	Canyoncito: No.
Turtle Mountain: Yes.	Alamo: No.
Fort Totten: Yes (conditionally).	Ramah: No.
Uintah and Ouray:	Warm Springs: No.
Uintah and Ouray: No.	Western Washington:
Shivwits: No.	Chehalis: Yes.
Koosharem: No.	Hoh: Yes.
Indian Peaks: Yes (conditionally).	Lower Elwha: Yes.
Kaibab: No.	Lummi: Yes (conditionally).
Kanosh: No.	Makah: Yes.
Umatilla: Yes (conditionally).	Muckleshoot: Yes.
United Pueblos:	Nisqually: Yes.
Acoma: No.	Ozette: Yes.
Cochiti: No.	Port Gamble: Yes.
Isleta: No.	Port Madison: Yes.
Jemez: No.	Public Domain: Yes.
Laguna: No.	Puyallup: Yes.
Nambe: No.	Quileuto: Yes.
Picuris: No.	Quinault: Yes.
Pojoaque: No.	Shoalwater: Yes.
Sandia: No.	Skokomish: Yes.
San Felipe: No.	Squaxon Island: Yes.
San Ildefonso: No.	Swinomish: Yes (conditionally).
San Juan: No.	Tulalip: Yes.
Santa Ana: No.	Wind River: Yes.
	Winnebago Agency:
	Omaha: Yes.
	Ponca: Yes.
	Santee Sioux: Yes.
	Winnebago: Yes.
	Yakima: No.

On the basis of the groups, tribes, bands, etc., named by the local Indian Bureau officials themselves, necessary legislation and administrative steps should be taken to effect discontinuance of further operation of the Bureau of Indians Affairs (either by transfer of responsibility for management and supervision over their lives and property directly to individual Indians or groups, to Federal agen-

cies supplying to non-Indians services needed by some Indians, or to the States and local governmental subdivisions) in the following States: California, Michigan, Nebraska, South Carolina, Texas, and Wyoming. Conclusions reached at the local Bureau level may not, of course, coincide with committee conclusions which might be reached after full hearings nor with local findings that all tribes in all named States are found eligible for termination.

(3) *A listing of functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of the Federal Government or to the States*

The functions currently performed by the Indian Bureau may be broadly classified under the following headings: (1) "Education"; (2) "Health"; (3) "Welfare"; (4) "Law and Order"; and (5) "Management of Indian Lands and Resources".

The subcommittee recommends that all remaining educational activities now carried on by the Indian Bureau be transferred as soon as possible to the States. If this can be done through contracts under the Johnson-O'Malley Act (49 Stat. 1458) it should be effectuated within 5 years. If not, then special legislation by Congress may be needed. Contracts under the Johnson-O'Malley Act require the initiative to come from the Indian Bureau at the present time and therefore it is advisable to transfer this function of negotiation to the Federal Department of Health, Education, and Welfare.

In the matter of Indian health, the subcommittee also recommends that this function be transferred to the Federal Department of Health, Education, and Welfare with the understanding that services shall be rendered in former Indian hospitals to all citizens alike, regardless of race. Johnson-O'Malley contracts by the Indian Bureau should be discontinued in the field of health.

Welfare activities of the Indian Bureau could be transferred to the Department of Health, Education, and Welfare, so far as they relate to services performed by the Federal Government for all of its citizens. Otherwise, such services might well be terminated or transferred to local units of government.

Johnson-O'Malley Act contracts for Indian welfare by the Indian Bureau should be discontinued. These have never been important and have no significant value.

Law and order functions of the Indian Bureau can and should be entirely transferred to the States. Public Law 280 of the 83d Congress operated to (1) confer as of enactment date, civil and criminal jurisdiction in California, Minnesota (except Red Lake), all of Nebraska, Oregon (except Warm Springs), and Wisconsin (except Menominee); (2) give consent to Arizona, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington, to amend present organic law to permit assumption of jurisdiction; and (3) to give consent to all other States to acquire jurisdiction at such time and in such manner as by affirmative legislative action such States may so elect. Federal-Indian-State cooperation and understanding of the desirable ends to be accomplished remain the key to solution to this historic and multiface problem.

The management of Indian lands and resources includes programs of credit and extension, forest and range management, irrigation, roads, soil conservation, and land sales, rental, or lease. Some of these are functions normally performed by other Federal agencies for all citizens. These could be transferred to such agencies. Others such as roads could be transferred to State or local governments. Indian forests could be treated in accordance with the individual situation. The function of land sales, management, rental, and lease should definitely be transferred to the Indians themselves. A legislative program

of release tribe by tribe would necessarily include provisions for transfer of land and resources management to the proper existing agency. The committee's recommendations regarding the management of Indian lands and resources are set forth under item (6) "Findings concerning transactions involving the exchange, lease, or sale of lands or interest in lands belonging to Indian wards."

(2) *Legislative proposals designed to promote the earliest practicable termination of all Federal supervision and control over Indians, and*

(5) *Recommended legislation for removal of legal disability of Indians by reason of guardianship by the Federal Government*

Since legal disabilities of Indians by reason of guardianship by the Federal Government are part and parcel of special Federal supervision and control over Indians the two are grouped together in this report. In fact, the chief remaining legal disability of Indians under ward status consists in the ineligibility of the Indians to handle their own property as they see fit. The effectuation of a removal of Federal special supervision and control over Indians should include a removal of special legal disabilities appertaining to Indians under guardianship.

The organization of Indians into tribal groups with constitutions and charters derived from the Secretary of the Interior—in numerous instances without affirmative tribal approval or comprehension of what was being undertaken—appears to constitute one of the outstanding legal disabilities of Indians at the present time. The requirement for secretarial approval of tribal attorneys' contracts is an additional disability along the same line. Hence, it is the opinion of this subcommittee, after examination of the record compiled during lengthy investigations, with respect to the operation of such tribal governments, both those organized under the Indian Reorgan-

ization Act (48 Stat. 984) and those otherwise formulated, that there should be immediately initiated a program to evaluate the operations of each individual tribe under existing authority with an objective of repealing such authority where there is a demonstrated unwillingness or inability of an individual group to function in a reasonably satisfactory manner for maximum group, rather than individual, benefits. A firm policy of local Indian responsibility, combined with full consultation at the local level to achieve understanding, it is believed, should permit objective evaluation of the program, encouraging self-determination.

The subcommittee also takes notice that the so-called Handbook of Federal Indian Law was compiled and published in 1940 and has been employed as a standard reference book on Indian law. The subcommittee has concluded, in view of the great body of statutes, regulations, and court decisions since operative (including those growing out of the Indian Claims Commission Act of 1946), that it is an inadequate and outdated account of Federal-Indian relations; it is therefore recommended that title 25 of the United States Code be specially annotated and printed as a separate fundamental reference on Federal-Indian law and that a detailed index of the subject matter of all congressional legislation relating to individual Indian tribes, to include treaties or other special agreements, be made a part of this document.

The subcommittee recommends that a comprehensive study and report to Congress concerning law enforcement practices on each reservation be made by the Indian Bureau not later than July 1, 1955, with particular emphasis on actual operations, the matter of maintenance and preservation of court records, the receipt and disposition of court fines on reservations, and the history of law enforcement activities since 1934.

The subcommittee furthermore recommends that a study be made of the adequacies of expression of Indian opinion

by organizations actively concerned with legislation to remove Indians from the status of wardship, among others (1) the National Congress of American Indians, (2) the Association on American Indian Affairs, (3) the Institute of Ethnic Affairs, and (4) the Indian Rights Association.

The subcommittee recommends that an appraisal be made of the citizenship status of Indians on the rolls of Colville, Blackfeet, Turtle Mountain, Papago, Kootenai, Fort Peck, Red Lake, Fort Belknap, Consolidated Chippewa, Mescalero Apache, New York Indians, Michigan Indians, and any other reservations located within some proximity of our national borders. It may be desirable to have the names of any of those who are on these tribal rolls but who maintain legal residence and citizenship in either Canada or Mexico and the treaty status of such individuals, if relevant.

The subcommittee recommends programming of cadastral surveys looking toward eventual taxation in each State wherein are located Federal Indian reservations. Such surveys are of the greatest importance in making available authentic information regarding ownership, title, extent, and value of Indian lands which may be ultimately added to the local tax rolls. Indian allottees or holders of trust allotments must be effectively familiarized with taxing procedures and tax practices prior to assumption of this responsibility under further congressional legislation.

The subcommittee recommends that at the time of termination of Federal special authority over each Indian tribe, a list of any known legal disabilities, including treaty provisions (if any), for that tribe be compiled and given consideration in terminal legislation. The subcommittee further recommends expediting of the matter of preparing terminal bills to the end that bills may be drawn for all groups mentioned under points (1) and (4) under the category "Yes" within the next 5 years.

It is anticipated that programs for termination for remaining groups will be subsequently formulated with schedules of withdrawal from each, with time limits specified.

(6) Findings concerning transactions involving the exchange, lease, or sale of lands or interests in lands belonging to Indian wards

The only permanent solution for the problems involved in the handling of Indian lands by the Bureau of Indian Affairs lies in removal of Indian Bureau control. Hence it is the recommendation of this subcommittee that immediate steps be taken to make possible the handling of all leases of Indian land (belonging to those individuals or groups recommended for early termination) a matter of simple contract directly negotiated between individual Indians or cooperative groups of Indians and the lessees. No further Indian Bureau handling of such matters in the case of competent Indians is desirable or necessary. Individual Indians or cooperative groups of competent Indians should be encouraged to make contracts with general counsel of their own choosing without need of approval from the Secretary of the Interior.

Disposition and leasing of tribal land should be left up to the Indians who have interest therein. Competent Indians should be entitled to buy or sell land as they see fit without restriction. Heirship land should be consolidated or sold and the proceeds distributed among the heirs. Indians should not be subjected to control as to how they are to spend the proceeds of per capita distributions. They will never possess the rights of full citizenship so long as any part of their business activities continues to be handled for them long after they have become really competent.

The subcommittee finds that in the fraud cases involving manipulations of title and underappraisal of land values in the State of Oregon justice has been done and

the Indian Bureau appears to have discharged its obligations of trust as well as it could under the circumstances. The only final solution to prevent future repetition of such cases lies in taking all such land from trust status and granting patent-in-fee to all allotments. Indians now in wardship status would, if granted all the rights and privileges of handling their own property, not be subject to fraud in the manner of the cases mentioned above. They would have the responsibilities of full citizenship which is their due. At present the attitude of the Indian under wardship can be that he is not a morally responsible agent in matters of fraud. In other words, the legal status of incompetency, ipso facto, is bad for the Indian. The sooner he is completely rid of this status, the better.

The subcommittee's findings indicate that the policy of renewing expired trust allotments should cease in the interest of the Indian's becoming his own manager. It recommends that the Secretary of the Interior be divested of power to annually renew expired trust allotments. When trust allotments expire the Secretary should promptly issue patents-in-fee to such allotments.

The subcommittee recommends that a card file be assembled at once in the central office of the Indian Bureau with a separate card for each Indian—man, woman or child—whose property is held in trust status by the Indian Bureau and that said card shall contain all essential up-to-date information regarding the trust property and rights in trust property of the individual thereon listed.

CRITERIA WHICH HAVE BEEN USED IN DETERMINING THE QUALIFICATIONS OF INDIAN TRIBES FOR MANAGING THEIR OWN AFFAIRS

On February 8, 1947, Mr. William Zimmerman, then Acting Commissioner of Indian Affairs submitted certain testimony regarding the termination of Indian Bureau supervision over selected Indian groups, before the Senate Committee on the Post Office and Civil Service, Sen-

ator William Langer, of North Dakota, chairman (officers and employees of the Federal Government, hearing before the Committee on Post Office and Civil Service, U.S. Senate, 80th Cong., 1st sess., on S. Res. 41, pt. 3, p. 547, Washington, 1947). In determining the readiness of specific Indian groups for termination Mr. Zimmerman took four factors into account as follows:

The first one is the degree of acculturation of the particular tribe. That includes such factors as the admixture of white blood, the percentage of illiteracy, the business ability of the tribe, their acceptance of white institutions and their acceptance by the whites in the community.

The second factor is the economic condition of the tribe, principally the availability of resources to enable either the tribe or the individuals, out of their tribal or individual assets, to make a reasonably decent living.

The third factor is the willingness of the tribe and its members to dispense with Federal aid.

The last criterion is the willingness and ability of the State in which the tribe is located to assume the responsibilities.

Although this statement is on the surface an entirely plausible and reasonable approach to the problem of selecting out progressive Indian groups for termination it is potentially another roadblock to full Indian citizenship. This is because it assumes implicitly that Indians must be considered as members of tribal groups rather than as individual citizens. The endless complications involved in finding the right combination of factors for each Indian tribe as a whole are not entirely conducive to termination of Indian Bureau supervision over the group as individuals.

To look at it from another angle for a moment, are we to assume that the Federal Government necessarily has an obligation to supervise Indians as tribes until each of

the four criteria mentioned is met in every detail without question? Will there not always be those who, for reasons of their own, will oppose the finding that some one tribe has met all these requirements in every detail?

Hearings have been held by the Joint Committees of Interior and Insular Affairs of the House and Senate on all of the groups (except New York Indians) mentioned by Mr. Zimmerman as ready under his criteria for immediate termination. Yet in each case a detailed examination of the individual tribal situation showed that one or more of Mr. Zimmerman's criteria were not fully met. In the case of California no less than 115 distinct groups of Indians had to be considered, in western Oregon no less than 60 distinct groups.

The impracticability of dealing with Indians as tribes was long ago recognized in effect by the Indian Bureau when it developed a system of Indian census rolls in terms of specific jurisdictional units. Hence the jurisdiction took the place of the tribe as a social unit for Indians. The totemic clan group, which was in many instances the real local unit, was completely passed over in practical administration. The band was more frequently recognized but then primarily as a subdivision under some larger administrative agency or reservation. Mr. Zimmerman's tribal groups are simple jurisdictional units and to that extent artificial groupings of Indian individuals. The jurisdictional units are artificial inasmuch as they are constantly undergoing shift and rearrangement to suit administrative convenience and do not in the majority of instances represent any aboriginal Indian social group, be it tribe, band, or clan.

Hence the proposition that it is possible to release Indians from Indian Bureau supervision jurisdiction by jurisdiction, under a fixed series of selected criteria, is open to question. The ineffective, and in most instances inactive, tribal governments are the least desirable types

of civic social groupings for Indians. Immigrants do not become citizens as tribal groups and neither should Indians. It is by dissolving the jurisdictional system now imposed on Indians by the Indian Reorganization Act that Indians can become free of these special restrictions.

THE URGENT NEED FOR CONTINUED INVESTIGATION OF AND REPORTING ON THE ADMINISTRATION OF INDIAN AFFAIRS

The findings of this subcommittee on the matter of Federal-Indian relations indicates, more than anything else, the urgent need for congressional attention to the question of continued Indian wardship. The Sacramento area office neglected to report on many rancherias in response to the committee questionnaire of 1953. Many of the problems faced today in this field were faced by the Congress a hundred years ago. For example, the charge of corruption in the administration of Indian Affairs has been an almost perennial complaint since the time, at least, of the 1860's. Since the passage of the General Allotment Act in 1887 Congress has endeavored to effect a means whereby Indians could own their own property as individuals, and come under the same local laws.

Today the problem of Indian wardship is still with us and growing steadily more expensive and expansive. The Indian Bureau has been charged with the guardianship of Indian property in addition to the responsibility of preparing the Indians for full citizenship. The passage of House Concurrent Resolution 108 had charged the Bureau of Indian Affairs with the responsibility of preparing Indians for full citizenship as rapidly as possible. Since, however, the subcommittee feels that the Indian Bureau as an organ of the Federal Government specifically charged with the function of administering Indian affairs and property will not of itself initiate the necessary steps to terminate its own services through assisting individual Indians to become full citizens, it

recommends transfer of certain Indian Bureau functions to other Federal agencies with a view to making it possible for the Bureau to concentrate more effectively on the mandate embodied in House Concurrent Resolution 108.

Finally, an observation or two on the relationships between Congress, the public, and the Indians appears pertinent here.

Private organizations have assisted, and it is hoped will continue to assist, the Congress in its deliberations on legislative matters affecting the American Indian; from such sources, valuable funneling of opinion can be achieved, so that the Congress will have a full appreciation of the attitudes, hopes, and desires of our Indian citizens, and at the same time the latter may gain a full understanding of the aims and objectives of the legislative program.

Some critics of the congressional program for Indians apparently overlook the fact that not only individual Indians but whole tribes have asked or pleaded for termination of Federal supervision over their lives and property. The same persons may frequently overlook the fact that while in a sense Federal supervision under the Indian Reorganization Act constitutes protection, it also singles out a worthy group of fine American citizens and places them under restrictions and controls which tend to kill individual initiative or desire for advancement. On the basis of 103 years of programing by the Federal Government, through the Department of the Interior, Members of Congress can only conclude that there have not been made available to our Indian fellow citizens those benefits which our modern concept of citizenship participation prescribe for all citizens.

Membership of the House Indian Affairs Subcommittee during the 83d Congress came from areas populated by more than 250,000 Indians in the United States and

Alaska. The undersigned are convinced, from a vantage point of collective years of working in this field, that if there is one bulwark against hasty, ill-conceived legislation affecting the American Indian, it must lie within the membership of the Indian Affairs Subcommittees of the House and Senate. As with all other legislation, members must act as experience, conscience, and the very best advice obtainable from all available sources dictate action. To impute indifference, response to special interests, political partisanship, lack of sympathy for, or understanding of, this complex problem to Congressmen, is unrealistic and—in a very real sense—unfair to all concerned.

The most frequent argument used in attacking the current congressional program follows this line: Congress is endangering the Indian cultures, moral traditions, and violating the sanctity of values handed down for generations. Indian tribes should have the right to determine their own destinies and the right to maintain their own identity, distinct from other citizens of the United States.

The undersigned believe that the current congressional program might be described more accurately in this manner: American history, including the advance of western civilization on the North American Continent since 1800 and the settlement and development of State after State in the great western expanse of the United States, has involved a change and adaptation in the aboriginal culture patterns and moral values to meet the changed situation in which the Indians find themselves. Congress now recognizes that these changes in the manner of living of Indians require redefinition of the status in which these worthy people were placed during the period of their acculturation and integration into western civilization.

Today there is no possibility of recapturing the Indian way of life which characterized the great unfenced expanses of an undeveloped continent wherein tribes roamed

at will and were impeded only by clashes with stronger and more numerous groups in bloody, intertribal warfare. The present-day economic development of this country and its resources requires the cooperation of persons of Indian descent along with other citizens. The Indians as a whole have adopted the civilization and moral values of western civilization and must be dealt with having these considerations in mind.

With respect to Indian legislation, the subcommittee recognizes that at least a part of the resistance is opposition, not to the substance of the legislation, but opposition because of apprehension born of definite misinformation—deliberate or otherwise—channeled to tribes or individuals by interested parties.

Private organizations and individuals claiming to represent the American Indian can do no greater disservice to their cause than by acting as a barrier to understanding of the Federal program, rather than a bridge. Yet, the record strongly suggests that there are those small groups of individuals who, while claiming to represent the interest of the Indians, are in actuality seeking only to keep them in status quo so that they—the self-styled spokesmen for the Indian—can perpetuate the continuing need for their own “services” and thus continue to enjoy positions of prestige, importance, or profit to themselves alone. To accomplish this end, subcommittee files reveal, such groups and individuals, including some otherwise held in high public esteem, have disseminated untruths and misinformation to the very people whose interests they claim to represent. From such untruths and misinformation has flowed, not unexpectedly, apprehension on the part of the Indians, and indignation on the part of the non-Indian public sincerely interested in Indian welfare. Certain groups have claimed, and some Indians have repeated the assertion, that the current congressional approach has resulted in a negative attitude on the part of the Indian and in an attitude of resigna-

tion to the inevitable, which approach will be in all instances "bad for the Indian." The experiences of the subcommittee during the 83d Congress demonstrated to subcommittee members that tribes and individuals previously dealing with the Congress through these groups and individuals (frequently misrepresenting the facts) have gotten an entirely different picture of the congressional program when directly dealt with. The subcommittee and its staff have been watchful in this respect and must continue to be so in the future.

Nor do the activities of these small self-styled spokesmen for the Indians stop here. They have been known to indulge in the practice of literally bombarding the Indian subcommittees of the House and Senate with inspired telegrams, letters and to use many other similar pressures when Indian legislation has been under consideration. They have also used the same technique with the Office of the Chief Executive of this Nation in an effort to obtain veto or other action on Indian legislation. The deceptive and dishonest element in this situation is the fact that the real Indians themselves are almost completely drowned out by the high-powered propaganda machine of the "professional Indians" and their manipulators.

An additional problem of some magnitude is presented by a large group of persons, many of whom have apparently little or no Indian blood, who persist—as "professional Indians"—in "free loading" at Government or tribal expense under the guise of incompetent Indians.

Continued surveillance of progress under the directive of House Concurrent Resolution 108 will have a decisive effect in the accomplishment of the policy therein envisaged. The subcommittee therefore, recommends a continuation of the present House committee investigation, so fruitful in its results to date, as a means of supplying

an intelligent framework within which the legislative body may act.

WILLIAM HENRY HARRISON, *Chairman*,
WESLEY A. D'EWART,
E. Y. BERRY,
JACK WESTLAND,
A. L. MILLER (ex officio),
WAYNE N. ASPINALL,
GEORGE A. SHUFORD,
Special Subcommittee on Indian Affairs.

NOTE OF COMMITTEE CLERK.—It is pointed out that the recommendations of the subcommittee set out above were developed over the period embracing the 1st and 2d sessions of the 83d Congress and that subsequent legislative action effecting some recommendations has been taken since formulation of such recommendations, including the signing into public law of several then pending legislative matters.

DEF. EX. 17

CATAWBA TRIBE OF INDIANS OF
SOUTH CAROLINA
CATAWBA GENERAL COUNCIL
Rock Hill, South Carolina
January 3, 1959

RESOLUTION

Whereas, Catawba tribal members have sought aid on complaint that under Federal trusteeship, members held no title to the property upon which they could obtain credit to build homes, or could claim ownership of the property, if they did build them; could improve or develop the property only under existing federal restrictions pertaining to the cutting of timber or clearing of land or developing water, and

Whereas the Catawba tribal members desire the division of the 3388.8 acre reservation in York County, South Carolina and its property and assets among the individual members of the tribe on an equitable basis and,

Whereas this resolution provide that the Catawba Indians get patents to the land over which the United States Bureau of Indian Affairs holds trusteeship responsibility, and protection against the State of South Carolina usurping the acreage which the Catawbas now own, and,

Whereas, this land cannot now be alienated without the enactment of authoritative legislation,

Now therefore, BE IT RESOLVED that, in view of the benefits that will accrue to all of the members of the tribe by the equitable distribution of the tribal assets, its General Council assembled in regular meeting hereby formally request the Honorable Robert W. Hemphill, our Congressman from the Fifth District, to introduce and secure passage of appropriate legislation to accomplish the removal of Federal restrictions against the alienation

of Catawba land, in York County, South Carolina, so that it can be patented, and to provide for an equitable distribution of all the tribal assets amongst the members of the Catawba Tribe, and to provide for the protection of minors and incompetents, and do all those things necessary to accomplish the purposes of this legislation at no cost to the Catawba Indians or claim against their assets, and that nothing in this legislation shall affect the status of any claim against the State of South Carolina by the Catawba Tribe.

/s/ Albert Sanders, Chief
Chief

/s/ Roy Brown
Vice Chief

/s/ Garfield P. Harris
Secretary-Treasurer

/s/ Willie A. Sanders
Trustee

DEF. EX. 18

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Cherokee Indian Agency
Cherokee, North Carolina

JAN 26 1959

Commissioner, Bureau of Indian Affairs
Washington 25, D.C.

Attention: Branch of Tribal Programs

Dear Sir:

Attached is a copy of a resolution passed by the Catawba General Council at their meeting held January 3, 1959. The minutes of this meeting were transmitted to you by letter of January 15, 1959.

The resolution states that the Council requested the Honorable Robert W. Hemphill, their Congressman from the Fifth District, to introduce and secure passage of appropriate legislation to accomplish the removal of Federal restrictions against the alienation of Catawba lands in York County, South Carolina, so that the land can be removed from trust status in order to provide for an equitable distribution of all the tribal assets among the members of the Catawba Tribe, providing for the protection of minors and incompetents, and do all these things necessary to accomplish the purposes of this legislation at no cost to the Catawba Indians or claims against their assets and that nothing in the legislation shall affect the status of any claim against the State of South Carolina by the Catawba Tribe.

This matter has been discussed previously in meetings with Congressman Hemphill at which time Messrs. H. Rex Lee and Homer Jenkins were present. The resolution merits favorable consideration, and it is believed

that the Bureau should do everything possible in cooperation with Congressman Hemphill in securing necessary legislation to carry out the intentions of the Catawba General Council.

This office received two copies of the resolution with one marked for the Commissioner and the other one for this office. It is not known where the original copy is, but assume that since Mr. Bitney was at the meeting and has been there since that time, that perhaps he has the original copy of the resolution, or perhaps the original was sent direct to Congressman Hemphill.

It will be appreciated if we are kept advised as to the action taken by Congressman Hemphill in this matter.

Sincerely yours,

/s/ Richard D. Butts
Superintendent

DEF. EX. 19

Catawba Indian Reservation
Rock Hill, South Carolina
March 28, 1959

Special Tribal Council was call at 10.AM at the catawba Indian school For Congressman Robert W. Hemphill to explian the contract that was drawn up by the Bureau Of Indian Affairs.

Presiding Chief John Albert Sanders.

The following Executive was present, Chief John Albert Sanders Vic-Chief Roy Brown, Secretary & Treasurer Garfield C.Harris, Trustte Idle Sanders,and Trestee Willie Sanders.

Members representing the Federal Government was. Sup't. Richard D, Butts, Wilson Lathem Congressman Robert W Hemphill.

Mr. Jenkins, member of the Bureau Of Indian Affairs. State Committee,York County House Of Repesentative Col. Bates Harvy. members of Tribal present was. 61.

Conducting Chief John Albert Sanders.

1 Mr.Bates Harvy was first speaker.

2 Congressman Robert W. Hemphill explained the Contract that was drawn up by the Bureau Of Indian Affairs. Quite a few questions was asked during his talk,which he answered with Mr Jenkins aiding him in things he wasn,t able to clarify. as, to the rules of the Bureau Of Indian Affiars.

Congressman Robertw Hemphill was ask by one of the members,was the old reservation include in this contract, his reply was no. because it never was included with the new Reservation.

Congressman Robert W. Hemphill left following his talk.

Meeting was call to order by Chief John Albert Sanders. vote was made by the members.

57 votes was casted.

40 votes in favor excepting the Contract that was drawn up by the Bureau Of Indian Affiars.

17 oposed.

Contracted was excepted by the largest numberof votes.

/s/ Garfield C. Harris
GARFIELD C. HARRIS
Secretary&Treasurer

The following members was present.

- | | |
|-----------------------------|-------------------------|
| 1. Ayers, Hael Ervin | 31. Harris, Alfred |
| 2. Ax Ayers Sarah (Sanders) | 32. Harris, David Adam |
| 3. Ayers William Frell | 34. Harris, Dewuy |
| 4. Beck Fletcher Jr. | 35. Harris Floyd |
| 5. Beck Major Jr. | 36. Harris Henry A. |
| 6. Beck Samuel John | 37. Harris Joseph W. |
| 7. Beck Hollen | 38. Harris Mary |
| 8. Blue Arnold | 38. Harris Richard J. |
| 9. Blue Lillion | 40. Harris Thoarore |
| 10. Blue Eva | 41. Harris Garfield C. |
| 11. Blue Herbert | 42. Harris Wesley T. |
| 12. Blue Leroy | 43. Harris Dauglas W. |
| 13. Blue Randall Lauon | 44. Pyler Hubert |
| 14. Brindles, Missouri | 45. Robertson Elizabeth |
| 15. Brown Emma | 46. Sanders Albert |
| 16. Brown Roy | 47. Sanders Vera |
| 17. Bryson, Blanch | 48. Sanders Ada I. |
| 18. Cabaness, Marcile | 49. Sanders John I. |
| 19. Campbell, Nola (Harris) | 50. Sanders Arzada |
| 20. Canty, Alonza George | 51. Sanders Thomas M. |
| 21. Canty, Heyward | 52. Sanders Willie |
| 22. Canty, Thalma | 53. Sanders Verda |
| 23. Ferrell, Alberta | 54. Simmers Marie |
| 24. Fox Antonia | 55. Strickland Pearly |
| 25. Garcia, Betty Jennifer | 56. Starnes Lucy |
| 26. George, Ephriam D. | 57. Trimnal Virginia |
| 27. George Isabelle | 58. Wade Horse Gary |
| 28. George, Charles Louis | 59. Wade France |
| 29. George Landrum | 60. Gordon Eliza |
| 30. George Elsie | 61. Harris Georgia |

Catawba Indian Reservation
Rock Hill, South Carolina.
March 28, 1959

Special Tribal Council was called becuase a pition request it, sixty (60) members. They wanted Col. Bates Harvy to give them se-answers to the Resolution pass in January 3,1959.

Meeting was called to order at 8,PM. 51 member.

Presiding and conducting Secretary & Treasurer Garfield C.Harris.

The following Excutive was present Secretary & Treasurer Garfield C Harres, Trustee,John I Sanders, and Trustee Willie Sanders.

Anouncements. Special Tribal Council to be held March 28,1959 at 10-AM.For Congressman Robert W Hemphill.

Invocation by L.D. S Church,Branch President Ephriam George.

Meeting was turned over to Col Bates Harvy to answer some questionin rggards to Resolution pass January 3,1959.

Question. Ephiar. What was in the Resolution?

Answer. by Col. Bates Harvy. he read the Resolution.

Question. by Gary Wade,is old Resevation included withland division.

Answer. Col Bates Harvy. No.

Question, by Nelson Blue, Could a partil with drawelbe arranged?

It was explained by Samul Beck.

Nelson Blue gave ashort talk,explain his views encerning the division.

Mr. Faris was give afew minutes to explain art and a possibility of a building to put Indian relic, in.

Bendition by Samul John Beck.

/s/ Garfield C. Harris
GARFIELD C. HARRIS
Secretary & Treasurer

MINUTES OF SPECIAL MEETING OF THE
CATAWBA COUNCIL HELD AT THE CATAWBA
INDIAN SCHOOL ON SATURDAY MARCH 28, 1959,
ROCKHILL, S. C.

This meeting was called to order by Chief Albert Sanders at 10:00 a.m., and in addition to the members of the Tribe, United States Congressman Robert Hemphill, State Representative Harvey, Homer Jenkins, Chief of Tribal Programs, Superintendent Richard D. Butts, Assistant to the Superintendent Andrew W. Lathem and Messers Ernie Downing and Cliff Quayle of the Oklahoma City Area Office of Public Health, and representative from the Evening Herald, the Rockhill paper, were present.

Chief Albert Sanders introduced State Representative Bates Harvey, chairman of the State Legislative Committee on Indians, and Harvey gave a brief resume of the memorandum of understanding between the Catawba Tribe, the State of South Carolina and the United States Government. Colonel Harvey further stated that it was the intentions of the State Committee to carry out the wishes of the Catawba Tribe in so far as it was possible so to do. Congressman Hemphill of the Fifth Congressional District, was then introduced by Colonel Harvey as a person who is interested in the affairs of the Catawba Tribe and who has spent much time and exerted much effort on Catawba matters.

Congressman Hemphill then addressed the group and stated the purpose of the meeting being to explain to the Catawbas what the Federal Government can do and will do for them. Congressman Hemphill stated that immediately after his election a group of interested persons contacted him relative to the Catawba situation and explained that the Catawbas were unable to secure credit through normal channels. Also, that the group was interested in preserving the traditions of the Catawbas

and assisting in any way they could to better the lot of the Tribe. Congressman Hemphill stated that on his first trip to Washington he contacted Associate Commissioner Rex Lee and discussed the memorandum of understanding with him and was advised by Mr. Lee that the Bureau was of the opinion that the Catawba people were not in as great a need of Federal Assistance as most of the other Indians and therefore Federal Services to the Catawbas could not be expanded.

Congressman Hemphill then stated that after the Catawba Tribal meeting on January 3, 1959, at which time the resolution was passed to divide the assets of the Tribe, that a group of the Catawbas contacted him and requested an audience with him on a Sunday afternoon to discuss the Council Resolution and the proposed bill. He further stated that usually he did not even write a letter on Sundays but since this was a pressing matter and of the utmost importance to the Catawba people, he agreed to meet and discuss those matters with them. Congressman Hemphill advised the group that the proposed bill had not been introduced in the house and that he would not introduce the bill without the approval of the people. He then read the resolution passed in the Council on January 3, 1959. When the question was raised as to the effect which the resolution would have on the status of the 630 acre of land held in trust for the Catawbas by the State of South Carolina, Representative Harvey stated that there were no plans at present for changing the status of such lands. When the question was raised as to the cost of division of the assets, Congressman Hemphill referred this question to Mr. Jenkins, who stated that such cost would be borne by the Federal Government from appropriated funds.

Congressman Hemphill advised the group that on the date after receiving a copy of Council Resolution passed January 3, 1959, he preceeded in having legislation drawn up to carry out the intent of the resolution. Congressman

Hemphill stated that in his opinion the memorandum of understanding had been of no advantage to the Tribe. He then gave some history of the Tribal lands and stated that the Catawbass had no treaties with the Federal Government and that the reason for Bureau officials being in the picture is due to the experiences which they have had with other tribes.

The proposed bill was then read and explained by Congressman Hemphill. Several questions were raised by various members of the Tribe. Douglas Harris asked who would be considered members of the Tribe? Mr. Jenkins answered the question by reading Article 2 of the constitution as relates to membership. Another question was raised as to membership and title of a child born to a serviceman outside the State of South Carolina? Mr. Jenkins stated that other tribes had passed a resolution to clarify questions of this nature and that the Catawbass could do likewise. Douglas Harris stated that he made the motion for passage of the resolution of January 3, 1959 but since there was disagreement on the contents of the resolution he wanted to know if it were possible to give those members of the Tribe, who wanted to withdraw from Federal Supervision, their share of the Tribal assets and those who wanted to remain under Federal Supervision could stay on as they now are. This question was not answered at the time but later in the meeting when Hayward Kanty asked the same question Mr. Jenkins stated that at Kalamath part of the membership were getting out and part staying on. Congressman Hemphill stated that unless there was a clear majority for the bill he would not introduce the bill but would drop the matter, as he had many other pressing matters on which to spend his time. Chief Albert Sanders stated that the wishes of the Tribe had been expressed in the resolution passed January 3, 1959 and it was not intended that a vote would be taken at this meeting. Douglas Harris stated that there was sev-

eral questions he would like an answer on. Such as what happened to the money from the sale of land to the city of Rockhill? Management of the Tribal herd and what good was the herd doing the Tribe? To the question asked on the money from the sale of land to the city of Rockhill, Congressman Hemphill advised Mr. Harris that the money was being held for the Tribe's decision as to the use to be made of such funds. Congressman Hemphill and Representative Harvey both stated that since there seemed to be quite a lot of oppositions to the resolution of January 3 and the proposed bill that they would like to see the Tribe take another vote before they continued further in the matter, and both further stated that they did not plan to be at the meeting when such vote was taken.

The discussion of the proposed bill was then continued and questions were raised as to the method of divisions of the assets, restrictions against purchases of any of the lands by Negroes, status of the 630 acre tract held in trust by the State and the effect on Tribal members who are on welfare. It was explained to the group that members who now held assignments would be given first choice of the lands now assigned to them provided such assignment did not exceed his or her pro-rata share or that he pay for any land in excess of his pro-rata share. As to the question raised concerning prohibiting Negroes from purchasing any of the lands not taken up by the members of the Tribe, both Congressman Hemphill and Mr. Jenkins stated that if such restriction were included in the bill, the bill would not stand a chance of passing. Representative Harvey stated that any persons on welfare who held title to property would be required under State Law to give a lien on such property. Mr. Jenkins then explained further as to the method of determining the shares each member would be entitled to under the provisions of the proposed bill. The meeting then recessed and Congressman Hemphill and Representative Harvey departed.

When the meeting reconvened, Superintendent Butts explained to the group that Congressman Hemphill wanted another vote by the people as to their decision on the proposed Bill and further stated that the Bill was rather conclusive, and with careful study will answer most any questions concerning the distribution of the Tribal assets. The question was then raised as to what effect passage of the proposed bill would have upon the medical care which the Tribal members were receiving through the United States Public Health Service. Mr. Downing and Mr. Quayle were introduced and Mr. Downing explained the United States Public Health Policy. He stated that only those persons not able to pay for medical services were entitled to medical service provided by the United States Public Health. Some of the members stated that they were under the impression that all members of the Catawba Tribe regardless of their financial status were entitled to the Public Health services.

A vote by secret ballot was then taken on the proposed bill with all those who desired that Congressman Hemphill introduce the bill to mark their ballots yes, and all those that were opposed to mark their ballots no. Tabulation of the ballots disclosed that 40 voted yes and 17 voted no. Superintendent Butts then pointed out that any of the members who wanted to suggest any changes in bill could do so by submitting the changes they desired to Congressman Hemphill. The meeting then adjourned.

NOTE:

Both Congressman Hemphill and Representative Harvey requested that they be advised of the desires of the Tribe relative to the proposed bill after a vote was taken. Superintendent Butts advised both Congressman Hemphill and Representative Harvey of the results of the vote later in the afternoon of March 28.

/s/ Andrew W. Lathem
ANDREW W. LATHEM,
Assistant to the Supt.

March 31, 1959

Concurred

/s/ Richard D. Butts
RICHARD D. BUTTS, Superintendent
Cherokee Agency, North Carolina

Copy Sent to: Garfield Harris 3/31/59
Branch of Tribal Program 3/31/59

DEF. EX. 22

CATAWBA INDIAN NATION

Mr. HEMPHILL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. HEMPHILL. Mr. Speaker, I have introduced today legislation intended to clear up a situation with regard to the Catawba Indian Nation, which exists in South Carolina. These proud people who have always exhibited the best citizenship, have depreciated numerically from 6,000 people who owned 144,000 acres of land to 614, at the latest count, who own 4,000 acres of land. Unfortunately, the land is tied up today so that these people cannot borrow for their homes nor do they have the other privileges and responsibilities to which their citizenship entitles them. It is my purpose to put these people and their land on an even keel, an even station, with other citizens of the United States.

For many years these people have been excluded from the privileges of development as they hold no title, except mutual title, which the banks and other lending institutions cannot accept as collateral.

Chief Blue, who led his people for many years, told me the first time I asked him about this problem, that the people should be allowed to own the land, and borrow on it. He told me again the last time, which I went by to see him during the Easter recess. Chief Blue is retired now, but he can reflect on many years of honorable leadership. He wants his people to have the same privileges as other citizens.

The Catawbias have voted for this legislation. They just voted a resolution to have me introduce a bill. After the bill was prepared, I went to the district, met with those who showed enough interest to come, and they voted more than 2 to 1 for the bill introduced today.

Finally, Mr. Speaker, I want to thank and commend the Bureau of Indian Affairs for its help and cooperation. We have all worked hard on the problems presented and I hope and believe this legislation will be fruitful.

DEF. EX. 23

Mr. William Sims
Room 5327
DQ

Tozier—Int. 4306

[SEAL]

DEPARTMENT OF THE INTERIOR
INFORMATION SERVICE

BUREAU OF INDIAN AFFAIRS

For Release JUNE 10, 1959

INTERIOR DEPARTMENT FAVORS BILL
PERMITTING CATAWBA INDIANS OF
SOUTH CAROLINA TO DIVIDE
THEIR TRIBAL PROPERTY

The Department of the Interior today announced its endorsement of H.R. 6128, a bill that will permit members of the Catawba Indian Tribe of South Carolina to divide their tribal assets and discontinue their special Indian relations with the Federal Government.

The Catawba Indians have requested such legislation and have explicitly approved the provisions of H.R. 6128.

The property to be divided consists of 3,388.8 acres of land under Federal trusteeship in York County, S.C., near Rock Hill; a tribal herd of 12 cattle; approximately 6,500,000 board feet of timber; and nearly \$5,000 on deposit with the Bureau of Indian Affairs. The total estimated net Tribe is slightly over \$250,000.

Under provisions of the bill, tribal members who have received an assignment or use right in particular tracts of

tribal land will be given the right to select these tracts as part of their distributive shares. The remainder of the tribal assets will be sold and the proceeds distributed. Any property not sold within two years after enactment will be conveyed to a trustee for liquidation and distribution.

The Catawba Indians have received services for many years from the State of South Carolina but have only a relatively short history of special relationships with the Federal Government. Under a 1943 agreement among the Tribe, the State, and the Bureau of Indian Affairs, the land now held in Federal trusteeship was bought for the Tribe by the State and conveyed to the United States in 1945. In addition, the tribe has had for many years a reservation of one square mile which is held in trust by the State. This will not be affected by H.R. 6128 unless the State Legislature takes action to have it included in the distribution plan.

Last fall the Bureau of Indian Affairs found 62 Catawba families living on the Federal trust land, 21 families living on the "old reservation" under the State, 26 families living Rock Hill, and 53 families living elsewhere. The total includes 614 Indians in 162 family groups.

In its report the Department pointed out that the Catawbans have advanced economically at a steady pace during the past 14 years and have now reached a position comparable to that of their non-Indian neighbors.

Last December the State of South Carolina appointed a five-man legislative committee to help the Catawbans in negotiating for removal of the Federal trust restrictions from their land. This committee has studied H.R. 6128 and endorsed it.

* * * *

DEF. EX. 25

CATAWBA INDIAN TRIBE—DIVISION OF
TRIBAL ASSETS*For text of Act see p. 659*Senate Report No. 863, Sept. 1, 1959
[To accompany S. 2596]House Report No. 910, Aug. 17, 1959
[To accompany H.R. 6128]The House bill was passed in lieu of the Senate bill.
The House Report is set out.

House Report No. 910

THE Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6128) to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the tribe and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

PURPOSE

The purpose of H.R. 6128, introduced by Representative Hemphill, is to provide for the division of the assets of the Catawba Indian Tribe of South Carolina among its enrolled members in approximately equal shares.

NEED

Such legislation as this is necessary in order to close the roll of the Catawba Tribe and to distribute the bulk of the tribal assets among its members.

The Catawba Indians' relations with the Federal Government date back only to the 1940's. Their original reservation was set aside for them by treaty with South

Carolina in 1763. In 1840 they agreed to cede this reservation to the State except for a single square mile of land which is still held in trust for them by the State. In return the State agreed to furnish certain essential services for them.

Since 1943 the State, the Bureau of Indian Affairs, and the tribe have been working together to improve the economic conditions of the members. In 1945 the State bought 3,434 acres of land for the tribe and turned it over to the United States to be held in trust for them.

The Catawbias have advanced economically during the past 14 years and have reached a position that is comparable to their non-Indian neighbors. Many of them are employed in nearby communities. There are 162 Catawba families with 614 individual members. Eighty-three of these families live on restricted or reservation land. A nearly equal number live in Rock Hill, S.C., or elsewhere.

The tribal assets are valued at about \$254,000 or about \$1,500 per family. The assets consist principally of the tribal land which comprises nearly 4,000 acres, including 630 held in trust by the State of South Carolina.

The State appointed a five-man legislative committee on December 16, 1958, to assist in negotiating with the Catawbias to remove the Federal restrictions from their lands.

The Catawba General Council at a regular meeting on January 3, 1959, asked that Federal restrictions be removed from their lands and that deeds thereto be issued. On March 28, 1959, the general council met in special session and endorsed the terms of this bill, as introduced, by a vote of 40 to 17. A second opportunity will be offered for members to accept or reject the legislation by the plebiscite amendment proposed by the committee.

COST

Enactment of H.R. 6128 will require no expenditure of appropriated moneys except for administrative expenses. The committee notes, on the other hand, that Federal expenditures on the reservation during the last fiscal year were approximately \$7,200 for administration, realty and forestry supervision, and soil and moisture conservation work.

COMMITTEE AMENDMENTS

The committee recommends amendment to the bill to provide for the holding of a plebiscite before any other action is taken under it and to provide for continuance of vocational training among the Catawbias until the tribe disbands.

DEPARTMENTAL RECOMMENDATION

The report of the Secretary of the Interior dated June 8, 1959, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 8, 1959.

Hon. WAYNE N. ASPINALL,

*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. ASPINALL: Your committee has requested a report on H.R. 6128, a bill to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the tribe and for other purposes.

We recommend that the bill be enacted.

The Catawba Indians have requested this legislation; they have endorsed the provisions of the bill; and we believe that they are ready for this action.

The bill closes the membership roll, and provides for the distribution of all tribal property among the members in approximately equal shares. Members who have assignments of land from the tribe, or members of their families, are given the right to select the assignments as parts of their distributive shares. The remainder of the tribal property will be sold and the proceeds of the sale will be distributed. Any property that is not sold within 2 years will be conveyed to a trustee for liquidation and distribution. When the program is completed the Catawba Indians will cease to be subject to the Federal Indian laws, but their status and rights under South Carolina law will not be affected.

The Catawba Indians in South Carolina have only a relatively short history of relationships with the Federal Government. They made a treaty with South Carolina on November 10, 1763, by which their original reservation was set aside for them. In 1840 they agreed with the State to a cession of this reservation with the exception of a single square mile of land, which is still held in trust for them by the State. In return for the Catawba land, the State provided services to them. The United States never made a treaty with these Indians. They have no claims filed with the Indian Claims Commission.

Efforts were made to bring the Catawba Indians under Federal jurisdiction during the 1930's when their plight was especially aggravated by the general depression. These efforts culminated in a memorandum of understanding approved on December 14, 1943, in which the Indians, the State, and the Bureau of Indian Affairs each agreed to take certain actions to alleviate the Catawbias' depressed economic condition. The agreement did not specify that the Federal Government was assuming guardianship of those Indians, and neither the Indians nor the State ever claimed that the Catawbias were wards

In accordance with the memorandum of understanding, the State bought 3,434.3 acres of land for the Catawbas and by warranty deed dated October 5, 1945, the State conveyed the land to the United States in trust for the tribe. It is this land and the accumulated assets from operating it that will be conveyed under the provisions of the bill.

A tabulation of Catawbas made in October 1958 shows 62 families living on restricted land, 21 families living on the "old reservation" under the State, 26 families living in Rock Hill, S.C. and 53 families living elsewhere. The total is 162 families with an enrollment of 614 Indians, and there are 120 white spouses.

The 3,388.8 acres that are held in trust by the United States and the 630 acres, known as the "old reservation," that are held in trust by the State comprise the tribe's total real property. Approximately 88 assignments covering 1,215 acres are made to individual tribe members. These assignments vary in size from approximately 1 acre to almost 80 acres. Some assignments are fully used; on others only a small portion is used for a home-site. Approximately 30 assignees are not living on their assignments. Other Indians who do not have assignments are living on assigned land or buying homes on them.

The assets of the tribe are estimated to be:

Land (3,388.8 acres under Federal trusteeship).....	\$203,215.00
Beef cattle, tribal herd (120 head and equipment).....	17,120.00
Local fund on deposit at agency (sale of land, etc.).....	4,949.14
Timber (6,500 thousand board-feet).....	30,512.00
Total	255,796.14
Liabilities amount to	1,400.00
Net worth of tribe	254,396.14

The Catawba Indians have advanced economically at a steady pace during the past 14 years, and have now reached a position that is comparable to their non-Indian

neighbors in the community. The following is a breakdown of the employment of the 162 families of the tribe:

Source of income	By families		By jobs, etc.	
	Number	Percent	Number	Percent
Jobs in industry	73	47	80	46
Skilled labor	31	20	37	21
Armed services	10	7	14	8
Retired (draw social security)....	7	5	7	4
Welfare	9	6	9	5
Other sources (employed, various jobs)	24	15	27	16
Total	¹ 154	100	² 174	100

¹ There are 5 family heads unemployed, and no information is available on 3 family heads.

² There are a total of 20 families that have more than 1 person with a source of income from jobs in industry, skilled labor, armed services, and other sources.

During the fiscal year 1958, it was estimated that the following costs were incurred by the Bureau of Indian Affairs for the Catawba Indians:

General administrative work: 11 days, plus \$849.60 interim costs	\$1,481.00
Realty supervision: 13½ days, plus \$910.44 interim costs....	1,441.91
Forestry supervision: 8½ days, plus \$243.12 interim costs..	511.33
Soil and moisture conservation: 11¾ days, plus interim cost of labor	3,795.00
Total	7,229.24

Interim costs are based on cost of general work relating to Catawba matters carried on between trips to the reservation.

Administrative, realty, forestry, and other supervision for the Catawba Indians is vested in the Superintendent of the Cherokee Indian Agency, Cherokee, North Carolina.

In the memorandum of understanding the tribe agreed to organize to transact community business, and on June

30, 1944, an IRA constitution and bylaws were approved by the Secretary of the Interior. These documents spell out membership requirements that will be used as a basis for preparing the final roll as required by the bill.

The State of South Carolina appointed a five-man State legislative committee on December 16, 1958, to assist in negotiating with the Catawbias to remove the Federal restrictions from their lands. This committee has studied the proposed legislation and has endorsed it.

The Catawba General Council at a regular meeting on January 3, 1959, asked that Federal restrictions be removed from their lands and that they be granted deeds. On March 28, the general council met in a special meeting and endorsed the terms of the bill by a vote of 40 to 17.

If this bill is enacted, the costs of appraisals, surveys, etc., will be paid by the Bureau of Indian Affairs out of regularly appropriated funds.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends enactment of H.R. 6128, as amended.

DEF. EX. 26

SENATE

Calendar No. 885
REPORT
No. 863

86TH CONGRESS
1st Session

PROVIDING FOR THE DIVISION OF THE TRIBAL ASSETS OF THE CATAWBA INDIAN TRIBE OF SOUTH CAROLINA AMONG THE MEMBERS OF THE TRIBE

SEPTEMBER 1 (legislative day, AUGUST 31), 1959.—
Ordered to be printed

Mr. NEUBERGER, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 2596]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 2596) to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the tribe, and for other purposes, having considered the same report favorably thereon with an amendment and recommend that the bill as amended to pass.

The amendment is as follows:

On page 4, line 22, after the word "date" insert "of the notice provided for in section 1".

PURPOSE OF THE BILL

The purpose of S. 2596, as amended, is to provide for the division of the assets of the Catawba Indian Tribe

of South Carolina among its enrolled members in approximately equal shares.

NEED

S. 2596 is necessary in order to close the roll of the Catawba Tribe and to distribute the bulk of the tribal assets among its members.

The Catawba Indians' relations with the Federal Government date back only to the 1940's. Their original reservation was set aside for them by treaty with South Carolina in 1763. In 1840 they agreed to cede this reservation to the State except for a single square mile of land which is still held in trust for them by the State. In return the State agreed to furnish certain essential services to them.

Since 1943 the State, the Bureau of Indian Affairs, and the tribe have been working together to improve the economic conditions of the members. In 1945 the State bought 3,434 acres of land for the tribe and turned it over to the United States to be held in trust for them.

The Catawbias have advanced economically during the last 14 years and have reached a position that is comparable to their non-Indian neighbors. Many of them are employed in nearby communities. There are 162 Catawba families with 614 individual members. Eighty-three of these families live on restricted or reservation land. A nearly equal number live in Rock Hill, S.C., or elsewhere.

The tribal assets are valued at about \$254,000 or about \$1,500 per family. The assets consist principally of the tribal land which comprises nearly 4,000 acres, including 630 held in trust by the State of South Carolina.

The bill states that its provisions shall not become effective until a majority of the Indians agree to divide the tribal assets. If all the assets have not been disposed of within 2 years following agreement, they will be turned over to a trustee selected by the Secretary of the Interior for disposition.

The State appointed a five-man legislative committee on December 16, 1958, to assist in negotiating with the Catawbias to remove the Federal restrictions from their lands.

The Catawba General Council at a regular meeting on January 3, 1959, asked that Federal restrictions be removed from their lands and that deeds thereto be issued. On March 28, 1959, the general council met in special session and endorsed the terms of this bill, as introduced, by a vote of 40 to 17. A second opportunity will be offered for members to accept or reject the legislation under the terms of section 1 of the bill.

Enactment of S. 2596 will require no expenditure of appropriated moneys except for administrative expenses, and will result ultimately in a reduction in expenditures for Indians.

The report of the Secretary of the Interior dated August 27, 1959, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. August 27, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURRAY: Your committee has requested a report on S. 2596, a bill to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the tribe and for other purposes.

We recommend that the bill be enacted.

The Catawba Indians have requested this legislation; they have endorsed the provisions of the bill; and we believe that they are ready for this action.

The bill provides for closing the membership roll, and for distributing all tribal property among the members in approximately equal shares. Members who have assignments of land from the tribe, or members of their families, are given the right to select the assignments as parts of their distributive shares. The remainder of the tribal property will be sold and the proceeds of the sale will be distributed. Any property that is not sold within 2 years will be conveyed to a trustee for liquidation and distribution. When the program is completed, the Catawba Indians will cease to be subject to the Federal Indian laws, but their status and rights under South Carolina law will not be affected.

The Catawba Indians in South Carolina have only a relatively short history of relationships with the Federal Government. They made a treaty with South Carolina on November 10, 1763, by which their original reservation was set aside for them. In 1840 they agreed with the State to a cession of this reservation with the exception of a single square mile of land, which is still held in trust for them by the State. In return for the Catawba land, the State provided services to them. The United States never made a treaty with these Indians. They have no claims filed with the Indian Claims Commission.

Efforts were made to bring the Catawba Indians under Federal jurisdiction during the 1930's when their plight was especially aggravated by the general depression. These efforts culminated in a memorandum of understanding approved on December 14, 1943, in which the Indians, the State, and the Bureau of Indian Affairs each agreed to take certain actions to alleviate the Catawbas' depressed economic condition. The agreement did not specify that the Federal Government was assuming guardianship of these Indians, and neither the Indians nor the State ever claimed that the Catawbas were wards of the Federal Government.

In accordance with the memorandum of understanding, the State bought 3,434.3 acres of land for the Catawbas and by warranty deed dated October 3, 1945, the State conveyed the land to the United States in trust for the tribe. It is this land and the accumulated assets from operating it that will be conveyed under the provisions of the bill.

A tabulation of Catawbas made in October 1958 shows 62 families living on restricted land, 21 families living on the old reservation under the State, 26 families living in Rock Hill, S.C., and 53 families living elsewhere. The total is 162 families with an enrollment of 614 Indians, and there are 120 white spouses.

The 3,388.8 acres that are held in trust by the United States, and the 630 acres, known as the "old reservation," that are held in trust by the State, comprise the tribe's total real property. Approximately 88 assignments covering 1,215 acres are made to individual tribal members. These assignments vary in size from approximately 1 acre to almost 80 acres. Some assignments are fully used; on others only a small portion is used for a home-site. Approximately 30 assignees are not living on their assignments. Other Indians who do not have assignments are living on assigned land or buying homes on them.

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Total	¹ 154	100	² 174	100

¹ There are 5 family heads unemployed, and no information is available on 3 family heads.

² There are a total of 20 families that have more than 1 person with a source of income from jobs in industry, skilled labor, armed services, and other sources.

During the fiscal year 1958, it was estimated that the following costs were incurred by the Bureau of Indian Affairs for the Catawba Indians:

General administrative work: 11 days, plus \$849.60 interim costs	\$1,481.00
Realty supervision: 13½ days, plus \$910.44 interim costs....	1,441.91
Forestry supervision: 8½ days, plus \$243.12 interim costs..	511.33
Soil and moisture conservation: 11¾ days, plus interim cost of labor	3,795.00
Total	7,229.24

Interim costs are based on cost of general work relating to Catawba matters carried on between trips to the reservation.

Administrative, realty, forestry, and other supervision for the Catawba Indians is vested in the Superintendent of the Cherokee Indian Agency, Cherokee, N.C.

In the memorandum of understanding the tribe agreed to organize to transact community business, and on June 30, 1944, an IRA constitution and bylaws were approved by the Secretary of the Interior. These documents spell out membership requirements that will be used as a basis for preparing the final roll as required by the bill.

The State of South Carolina appointed a five-man State legislative committee on December 16, 1958, to assist in negotiating with the Catawbas to remove the Federal restrictions from their lands. This committee has studied the proposed legislation and has endorsed it.

The Catawba General Council at a regular meeting on January 3, 1959, asked that Federal restrictions be removed from their lands and that they be granted deeds. On March 28 the general council met in a special meeting and endorsed the terms of the bill by a vote of 40 to 17. The bill provides that it will become effective only when a majority of the adult tribal members agree.

If this bill is enacted, the costs of appraisals, surveys, etc., will be paid by the Bureau of Indian Affairs out of regularly appropriated funds.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

DEF. EX. 29

Nov. 17, 1959

Mr. Raymond Bitney, Program Officer
 Andrew Jackson Hotel
 Rock Hill, South Carolina

Dear Mr. Bitney:

Enclosed are 300 copies of an explanation of the Catawba Act as interpreted by the Solicitor's Office. Also 300 copies of the agreement form that has been approved for use. Envelopes are also enclosed for the adult Catawbans to send their agreement forms either to the Chief or the Superintendent.

We have not as yet received printed copies of the act but we are doing everything possible to get them to you as soon as we can.

Sincerely yours,

/s/ Peter F. Walz
 Program Officer

Copy to: Surname
 Chrony
 Mailroom
 Holdup
 M Matheson

PFWalz:bap 11-17-59

Date _____

AGREEMENT

To accept the terms of Public Law 86-322 for a division of Catawba tribal assets.

I, _____, an adult member of the Catawba Tribe, hereby certify that I have received a copy of the Act of September 21, 1959, Public Law 86-322 whereby the assets of the Catawba Tribe will be divided among the tribal members, and I agree that the assets should be distributed according to the terms of the Act. I further agree that the terms of the Act shall apply to me as an individual and the Catawbas as a tribe.

 Signed

Witness

Explanation of the act to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the tribe (Public Law 86-322, 86th Congress, H.R. 6128, September 21, 1959).

The act provides for the closing of the membership roll and the distribution of all tribal property among the members who are listed on this roll (or heirs of deceased members) in approximately equal shares.

The first section creates the procedure to be used in the preparation, approval, and closing of the Catawba Indian tribal roll.

Section 2 provides that each living member or the estate of a deceased member will get an equal share of the tribe's property.

Section 3 contains the provisions for dividing tribal assets as follows:

(a) It authorizes the State of South Carolina, if it wishes, to divide up the Catawba land held by it, under the terms of this law.

(b) It permits the tribal council to say what part of the tribe's land may be set aside for church, park, playground, or cemetery purposes. These parcels may be turned over to trustees selected by the tribal council.

(c) The rest of the tribal land must be appraised by the Secretary, and the appraised value of each member's share is this total amount divided by the number of members. The appraisal will not include any buildings or other improvements made on an assignment which is selected by an assignee or his wife or children as provided in the next paragraph, since such improvements belong to the assignee.

(d) Each adult who has an assignment has a choice of getting any part of the assignment that is valued at not more than the value of his share of the tribe's assets. In addition, the same applies to the wife, husband, or children, of that adult. Selections for children may be

made by the adult. All selections must be approved by the Secretary.

(e) After selections have been made as provided above, each member who has no assignment may select any part of the remaining tribal land up to the appraised value of his share.

(f) All property of the tribe not chosen by members is to be sold and the money distributed to those who have not chosen their full share in land. The land sales are to be by competitive bid and all members have the right to buy the property at the same price as the highest acceptable bid. Property not sold within two years is to be turned over to a trustee for sale.

Section 4 authorizes the Secretary to make land surveys and issue deeds and other necessary documents to give good unrestricted title to the grantees or purchasers.

Section 5 revokes the tribal constitution which means that the tribe will no longer exist as a Federally recognized organization. In addition, just as the "tribe" no longer will be a legal entity which will be governed by Federal laws which refer to "tribes," so the individual members will no longer be subject to laws which apply only to Indians. Nothing in the act prohibits those interested in organizing under State law to carry on any of the nongovernmental activities of the group.

Section 6. Nothing in this act shall affect the rights, privileges or obligations of the tribe and its members under the laws of South Carolina.

Section 7 provides that the actual distribution of any property under this act will not be taxed, but this does not mean that the property or income therefrom will not be taxed thereafter. After the distribution, the usual State and Federal taxes will apply.

Section 8 provides for special educational and vocational training for the Catawbans while this law is being carried out.

November 16, 1959

DEF. EX. 35

[SEAL]

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
Washington 25, D.C.

May 29, 1962

Dear Mr. Sanders:

Section 5 of the Act of September 21, 1959 (73 Stat. 592), directs me to revoke the Constitution and Bylaws of the Catawba Indian Tribe of South Carolina which was approved by Oscar L. Chapman, the Assistant Secretary of the Interior, on June 30, 1944. The date of revocation marks the termination of the legal relationship that exists between the Catawbas as a tribe and the individual members as Indians, and the United States Government.

Section 3(f) of the Act provides for a period of two years to distribute the assets and also provides for the disposition of those assets not conveyed to members. This two-year period began on the date a notice was published in the Federal Register that a majority of the adult Catawbas had accepted the terms of the Act; 25 F. R. 6305, July 2, 1960, and ends on July 1, 1962. The date of revocation will be made to correspond to the end of the two-year period.

Pursuant to the cited authority I hereby declare the Constitution and Bylaws of the Catawba Indian Tribe of South Carolina, revoked as of July 1, 1962; together with all ordinances, resolutions, codes and regulations promulgated under said Constitution. Also, in accordance with further provisions of Section 5 of the Act, that as of July 2, 1962, the tribe and its members shall not be entitled to any of the special services performed by the United States for Indians because of their status as In-

dians, all statutes of the United States that affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner they apply to other persons or citizens within their jurisdiction.

There is enclosed a statement that is also being sent to the State of South Carolina which gives notice that the Memorandum of Understanding entered into by the State of South Carolina, the Catawba Tribe and the Bureau of Indian Affairs on December 14, 1943, has been rendered ineffectual by the Act of September 21, 1959, *supra*, insofar as the Federal Government is concerned.

Sincerely yours,

/s/ John A. Carver, Jr.
Secretary of the Interior

Mr. Albert E. Sanders, Sr.
Chief, Catawba Indian Tribe of
South Carolina
Route 3, Box 136
Rock Hill, South Carolina.

DEF. EX. 36

[SEAL]

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
Washington 25, D.C.

Jun. 15, 1962

Dear Governor Hollings:

The enclosed notice is issued in order that all of the Federal actions directed by the Act of September 21, 1959 (73 Stat. 592), may be completed. We are sending an identical notice to the Catawba Indian Tribe of South Carolina. The Constitution and Bylaws of the Catawba Tribe will be revoked as of July 1, 1962.

Sincerely yours,

/s/ John A. Carver, Jr.
Secretary of the Interior

Hon. Ernest F. Hollings
Governor of South Carolina
Columbia, South Carolina

Enclosure

cc:

Mr. Albert H. Sanders, Sr.
Mr. Arthur H. Arntson

Sec. Surname
Sec. Reading File
BIA Surname
Prog. Chron.
Mailroom
PFWalz:nl 4/32/62

NOTICE

Whereas, the Act of September 21, 1959 (73 Stat. 592), provides that special services performed by the United States for Catawba Indians because of their status as Indians shall be terminated on the date of revocation of the tribe's constitution; and

Whereas, the Bureau of Indian Affairs has performed services to the Catawba Indians pursuant to a Memorandum of Understanding entered into with the Tribe and the State of South Carolina on December 14, 1943; and

Whereas such Memorandum of Understanding is to be rendered ineffectual by the Act of September 21, 1959, *supra*, and since no term was agreed upon in the Memorandum of Understanding,

Now therefore, the Secretary of the United States Department of the Interior hereby gives notice of intention to withdraw and conclude the Department's responsibilities under the agreement approved December 14, 1943. The effective date of withdrawal shall be July 1, 1962.

/s/ John A. Carver, Jr.
Secretary of the Interior

DEF. EX. 39

April 1, 1981

Patricia Simmons—343-4045
Branch of Tribal Relations

INDIAN TRIBES TERMINATED FROM FEDERAL SUPERVISION

Alabama and Coushatta Tribes of Texas

Act of August 23, 1954 (68 Stat. 768)

Catawba Indian Tribe of South Carolina

Act of September 21, 1959 (73 Stat. 592)

Klamath and Modoc and Yahooskin Band of Snake Indians of the Klamath Reservation

Act of August 13, 1954 (68 Stat. 718)

Ponca Tribe of Nebraska

Act of September 5, 1962 (76 Stat. 619)

Mixed Blood Ute Indians of the Uintah and Ouray Indians of Utah (aka Affiliated Ute Citizens of the Uintah and Ouray Reservation)

Act of August 27, 1954 (68 Stat. 868)

California Indian Rancherias

Act of August 18, 1958 (72 Stat. 619)

Alexander Valley	Crescent City (Elk Valley)
Auburn	Graton (Sebastopol)
Big Valley	Greenville
Blue Lake	Guidiville
Buena Vista	Indian Ranch
Cache Creek	Likely
Chicken Ranch	Lookout (West)
Chico (Meechupta)	Lytton
Cloverdale	Mark West
Colfax	Mission Creek

Mooretown	Scotts Valley
Nevada City	(Sugar Bowl)
North Fork	Shingle Springs
Paskenta	(El Dorado Tract)
Picayune	Smith River
Pinoleville	Strathmore
Potter Valley	Strawberry Valley
Quartz Valley	Table Bluff
Redding (Clear Lake)	Taylorville
Redwood Valley	Wilton
Rohnerville (Bear River)	
Ruffeys (Ruffeys Valley-Etna Band)	

Western Oregon Indians: Tribes and Band of Western Oregon including the following tribes, bands, groups or communities in Oregon. Act of August 13, 1954 (68 Stat. 724)

Confederated Tribes of the Grand Rhonde Community

Alsea	Karok
Applegate Creek	Kathlamet
Calapooya	Kusotony
Chaftan	Kwatami or Sixes
Chempho	Lakmiut
Chetco	Long Tom Creek
Chetlessington	Lower Coquille
Chinook	Lower Umpqua
Clackamas	Maddy
Clatskanie	Mackanotin
Clatsop	Mary's River
Clowwewalla	Multnomah
Coos	Munsel Creek
Cow Creek	Naltunnetunne
Eucheas	Nehalem
Galic Greek	Nestucca
Grave	Northern Mallalla
Joshua	Port Oxford

Pudding River	Tillamook
Rogue River	Tolowa
Salmon River	Tualatin
Santiam	Tututui
Scoton	Upper Coquille
Shasta	Upper Umpqua
Shasta Costa	Willamette
Siletz	Tumwater
Siuslaw	Yamhill
Skiloot	Yaquina
Southern Molalla	Yoncalla
Takelma	

TERMINATED TRIBES RESTORED TO FEDERAL STATUS

Menominee Tribe of Wisconsin

Terminated by Act of June 17, 1954 (68 Stat. 250)

Restored by Act of December 22, 1973 (87 Stat. 770)

Ottawa Tribe of Oklahoma

Terminated by Act of August 3, 1956 (70 Stat. 963)

Restored by Act of January 19, 1978

Peoria Tribe of Oklahoma

Terminated by Act of August 2, 1956 (70 Stat. 937)

Restored by Act of January 19, 1978

Wyandotte Tribe of Oklahoma

Terminated by Act of August 1, 1956 (70 Stat. 893)

Restored by Act of January 19, 1978

Confederated Tribes of Siletz Indians of Oregon

Terminated by Act of August 13, 1954 (68 Stat. 724)

Restored by Act of November 18, 1977 (91 Stat. 1415)

Paiute Indian Tribe of Utah

Terminated by Act of September 1, 1954 (68 Stat. 1099)

Restored by Act of April 3, 1980 (94 Stat. 317).

EX. A

[SEAL]

In reply refer to:
F-60-1033-9

UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF THE SOLICITOR
Washington, 25, D.C.

July 22, 1960

Memorandum

To: Commission
From: The Solicitor
Subject: Memorandum of Understanding between
State of South Carolina, Catawba Tribe
and the Bureau of Indian Affairs

This refers to your memorandum of July 5, 1960, requesting advice as to whether a formal cancellation of the subject Memorandum of Understanding should be executed. We agree with your view that although the Memorandum of Understanding is not specifically mentioned in the recent termination legislation the federal government will not be bound by the terms of the agreement after the termination date.

The legislative history of the Act of September 21, 1959, 73 Stat. 592, clearly shows that the existence of such agreement was known to the Congress and that the Bureau services to be discontinued under the act were those covered by the subject Memorandum of Understanding. Further, the property to be distributed under the act *supra* is that which was conveyed to the United States in trust for the Catawba Indians pursuant to the 1943 Memorandum of Understanding. H Rept. 86th Cong. 1st Sess.

In view of these factors, it is our opinion that a formal cancellation of the document is not necessary. However,

to tie up all the loose ends, you may wish to request that the Secretary or his authorized representative submit a concluding document to the State of South Carolina and to the Catawba Tribe prior to the termination date. Such document might provide:

"Whereas, the Act of September 21, 1959, 73 Stat. 592, provides that special services performed by the United States for Catawba Indians because of their status as Indians shall be terminated on the date of revocation of the tribe's constitution; and

"Whereas, the Bureau of Indian Affairs has performed services to the Catawba Indians pursuant to a Memorandum of Understanding entered into with the Tribe and the State of South Carolina on December 14, 1943; and

"Whereas such Memorandum of Understanding is to be rendered ineffectual by the Act of September 21, 1959 *supra* and since no term was agreed upon in the Memorandum of Understanding,

"Now therefore, the Commissioner of Indian Affairs (Secretary) of the United States Department of the Interior hereby gives notice of intention to withdraw from and conclude the Department's responsibilities under the agreement approved December 14, 1943.

"The effective date of withdrawal shall be the date upon which the Constitution of the Catawba Tribe of Indians is revoked pursuant to section 6 of the Act of September 21, 1959, 73 Stat. 592."

GEORGE W. ABBOTT
The Solicitor

By: /s/ Franklin C. Salisbury
FRANKLIN C. SALISBURY
Assistant Solicitor
Indian Legal Activities